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The Solicitors' Journal

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Town Hall,
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EXAMINATIONS.

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The Solicitors' Journal

VOL. LXXVII. **Saturday, March 11, 1933.** No. 10

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Current Topics.

The City Remembrancer.

AFTER an unusually exciting contest the office of Remembrancer of the City of London, rendered vacant by the lamented death of Mr. JOHN ASPINALL, has been filled by the appointment of Mr. LESLIE C. B. BOWKER, who has been for some time legal secretary to the Law Officers of the Crown, and the experience he has gained as such should prove of advantage in the performance of the duties he will be called upon to undertake in his new post. The office of City Remembrancer goes back a long way, at least to the spacious days of Queen Elizabeth, and in 1685 we find an order by the City authorities that he should attend Parliament daily as well as the offices of the Secretaries of State to ascertain whether any business was in progress which might affect in any way the rights and privileges of the City. Another of his duties appears to be making the arrangements in connection with addresses by the Corporation to distinguished foreigners and others whom the City delighteth to honour. The Remembrancer is also one of the legal advisers of the City authorities, a circumstance which necessitates his being a member either of the Bar or of the solicitor branch of the profession. Mr. BOWKER, it may be added, was called to the Bar at the Middle Temple in 1922.

Lawyers and Gratuitous Service.

LAWYERS, like members of the other learned professions, have, during a time that the memory of man runneth not to the contrary, been exposed to the shafts of the satirists who have accused them of a great variety of shortcomings, and particularly of the offence of mercenariness; in other words, of thinking, in MILTON'S phrase, of nothing but "fat contentions and flowing fees." How baseless is this charge has been demonstrated time and again by examples showing that often lawyers have been content to assist with their advice those who were unable by poverty to obtain professional help on the usual conditions. Once again the report of The Law Society on the work of the Poor Persons Procedure affords fresh testimony of the readiness of members of the profession to place their legal knowledge and services at the disposal of those whose means preclude their embarking on litigation at their own costs and charges. The report is full of details all showing that solicitors and barristers alike are willing, nay eager, to help those unable to help themselves, and, indeed, the record is one of which the profession may well be proud. The solicitor branch may well claim to be entitled to the larger share of the credit for the excellent results appearing in the report, for while members of the Bar work in the public eye and consequently receive most of the kudos, the solicitors instructing them are almost of necessity kept in the background and have to be content with the feeling that they have done good by stealth and would blush to find it fame. Quite recently, however, the present writer was present when a poor person's case was being argued in the Court of Appeal by a distinguished King's Counsel and an equally distinguished junior. At the conclusion of the case two members of the bench spoke appreciatively of the services rendered by the two members of the Bar, whereupon the Silk very properly intervened and said that he hoped that the solicitor instructing him would be included in the judicial approval of the way the appeal had been presented. The court at once concurred, one of the lords justices adding that they were greatly indebted to the solicitor for the work he had undertaken and carried out so well. An occasional commendation from the bench in this fashion is a small yet pleasing tribute to what the solicitor branch is doing so unostentatiously for the benefit of the poor litigant.

Libels on Companies.

AN interesting defence was raised—ineffectively—in the recent case of *United Kingdom Advertising Co., Ltd.* v. *Sullivan* (*The Times*, 8th March), in which the plaintiffs were awarded £1,000 damages in respect of a libel appearing in *Reynold's Illustrated News*. It was, in substance, argued on the authority of *South Hetton Coal Co., Ltd.* v. *North Eastern News Association, Ltd.* [1894] 1 Q.B. 133, that, the plaintiffs being a company, the libel must be one which reflected on its trade or business, and, as the statements complained of arose out of activities *ultra vires* the company, no action lay. The case just mentioned is an authority for the affirmative proposition that an action will lie at the suit of a company in respect of a libel calculated to injure its business reputation without proof of special damage. But, as Lord ESHER said, the law of libel is "one and the same as to all plaintiffs," and the question, whether the action be brought by a person, firm or company is always the same—will the published statement tend in the minds of people of ordinary sense to bring the plaintiff into contempt, hatred or ridicule, or injure his character? The conditions under which a particular statement could be libellous might not exist in relation to a firm or company, while other statements, such as those reflecting on the conduct of business, would have the same effect whether uttered in regard to a person or trading concern. "That a corporation at common law can sue in respect of a libel," said POLLOCK, C.B., in an earlier case, *Metropolitan Saloon Omnibus Co.* v. *Hawkins* (1859), 4 H. & N. 87, "there is no doubt. It would be monstrous if a corporation could maintain no action for slander of title through which they lost a great deal of money. It could not sue in respect of an imputation of murder, or incest, or adultery, because it could not commit those crimes. Nor could it sue in respect of corruption, although the individuals composing it may. But it would be very odd if a corporation had no means of protecting itself against wrong; and, if its property is injured by slander, it has no means of redress except by action. Therefore, it appears to me clear that a corporation at common law may maintain an action for a libel by which its property is injured." In the case now being considered the company

was authorised by its memorandum to engage in "any other business which [might] usefully be carried on" with its advertising business. CHARLES, J., was satisfied that it was usual for a company of this character to advance money to undertakings in order to secure their advertising business. £11,000 had been advanced by the plaintiff company to the then leaseholder of an island in the Thames where scandalous practices were alleged to take place. The leaseholder became bankrupt and forfeiture of the lease was threatened. The matter was considered in court, and the company then became the leaseholder under an order. His lordship therefore held that the company's actions, prompted by the necessity of protecting money duly advanced under its memorandum, were not *ultra vires*, and the statements complained of were in consequence libels on the trade or business of the company.

The Rent, etc., Restrictions Bill: A Protest.

WE have received, and have read with pleasure, a pamphlet advocating the rejection of the Rent, etc., Restrictions Bill now before Parliament. The writer, who signs himself "Civis," marshals his facts and puts forward his arguments with commendable lucidity. It is, perhaps, not surprising that he makes passing reference only to the mass of evidence heard and sorted and weighed by the Inter-Departmental Committee on the Rent, etc., Restrictions Acts, whose recommendations are substantially adopted in the proposed measure. On the other hand, his allegations of fact are not greatly at variance with their findings; the Minority Report is referred to, once with approval, once with disapproval; but it is largely on economic and political grounds that his appeal is based. We are not competent to discuss the one, and not concerned with the other; as lawyers, we know full well how often there are two sides to a question as to what the law is; and from this and other writings we learn that there may be even more sides to a question as to what it ought to be. As students of jurisprudence, we may, however, be permitted to observe that this particular question is part of the larger question, that of freedom of contract. Whatever judges may have said on the subject, Parliament has long ceased to consider that its only duties are "to prevent crime and to preserve contracts"; and while Russia is the only country which has no use for the law of contract at all, it is interesting to note that the writer of a recent letter to *The Times*, which was certainly not inspired by Moscow, advocated the fixing of maximum rents for certain dwellings because the tenants were overcharged, were in receipt of out-relief, and profiteering landlords were thus assisted by the poor law. And while a frequent writer to that journal who is a prominent London estate agent looks upon a clause prohibiting contracting out as CATO the Censor looked upon Carthage, and invariably ends his letter with a plea for the restoration of freedom of contract, we doubt whether he fully realises the implications of his suggestion. For one thing, equity would have leaned against forfeiture for centuries in vain. And experience showed, in the case of the Agricultural Holdings Act, 1875, that unless contractual liberty sometimes be restrained, those whom Parliament has desired to benefit will soon be where they were before.

Police and Crime Detection.

MANY useful recommendations are contained in the recently issued report of H.M. Inspectors of Constabulary for the year ended 9th September, 1932 (H.M. Stationery Office, No. 46), price 6d. The numerous extra duties carried out by the police in cities and industrial areas are deplored, as tending to waste their activities on purposes other than their primary duty. Many of these duties, such as the serving of poor rate summonses and the execution of poor rate distress warrants, have a definite tendency, owing to their unpleasant nature, to bring the police into discredit with the public, and it is suggested that legislation be enacted for such service to be carried out by post. Co-operation between neighbouring forces is stated to be of increasing importance, owing to the fact that nowadays the wanted person quickly removes himself from the scene of his crime by the use of the motor, and it is suggested that in the larger forces a selected staff may have to be inaugurated for this special purpose. More discretion, it is recommended, should be given to constables as to how to work their beats, and county forces, especially in the rural areas, should patrol the beat on pedal or motor cycles, as "the element of surprise is very essential in all patrol work." Increased telephone communication is also suggested, especially in boroughs and suburban areas policed by county forces. The root cause of the increase in crime, however, is stated to be unemployment, and this is said to be particularly the case with regard to crimes against property and the new "shock tactic" type of crime, and it is hoped that as trade and employment improves crime will correspondingly decrease. The report, however, correctly describes the present state of affairs when it says that the police strength is taxed to its absolute limit, and if the suggestions it contains are carried out, much will have been done to alleviate a situation of considerable gravity.

Concealment of Names of Parties to Legal Proceedings.

So much interest has been aroused in legal as well as other circles by one aspect of the recent Revenue cases of *Southern* v. *A.B.* and *Southern* v. *A.B. Ltd.* (77 SOL. J. 139), in which a bookmaker and a company carrying on business as bookmakers respectively were concerned, that it is perhaps only fair to the Revenue authorities to say how the names of these litigants came to be concealed. We observe that one of our legal contemporaries in referring to these cases asks that the Attorney-General or the Inland Revenue Commissioners should explain how the non-disclosure of the respondents' names was contrived, the inference being, we suppose, that there was some private arrangement between the taxpayers and the Revenue authorities. Such was, however, not the fact. It will be remembered that on what is known as the Revenue side of the King's Bench Division, the functions of a Master of the Supreme Court are exercised by the Senior Master in his capacity of King's Remembrancer. All matters of procedure about which there is any doubt (and they are rare) come before him or in matters of especial difficulty before the judge in Chambers. In these particular appeals the Respondents took out a summons, which was referred by the King's Remembrancer to the judge (who happened to be Mr. Justice MCCARDIE), for an order that, inasmuch as their plea to the Revenue's case was that they were carrying on an illegal business, and was therefore tantamount to a confession of criminal offences, their names should be suppressed in the record. It was urged on their behalf that, otherwise, by resisting the demands of the Revenue for tax they would be playing into the hands of the police. It is not necessary for our purpose to go into the merits, whether moral or legal, of such a submission, but we desire to point out that the application was strongly resisted by the Commissioners of Inland Revenue. And there their responsibility ended, for the order was made by the judge as prayed, and the unusual view in any English court was seen of the identity of one of the parties to litigation being hidden from the public. If blame is to be attached to anyone for what most lawyers regard as a dangerous precedent, it should not be placed upon the shoulders of the Inland Revenue. Whatever their faults be, they have not as yet sought to distort the practice of the courts. We hope, however, that if in the future any other attempt is made by any litigant to obtain a similar privilege, the other party will have the courage of his convictions and will take the matter up to the Court of Appeal. Obviously, different considerations apply to a Government Departmenr who are not entitled to spend public money in testing new ot unusual decisions of judges which do not and cannot affect the only thing in which they are interested, namely, the gathering in of as much tax as possible.

A Dangerous and Unreliable Practice.

ALL those who at any time have unfortunately but successfully lapsed into quoting ambiguous passages from judgments or who have relied upon the *dicta*, frequently *obiter*, of some momentarily unthinking judge, must now have the pleasant thrill of knowing that they sin in good company. The cause of this is *Adamson* v. *Attorney-General* [1933] W.N. 5; 49 T.L.R. 169, where one learned law lord called attention to the fact that two others of his brethren were guilty of this very fault. Lord RUSSELL OF KILLOWEN thus voiced his protest (at p. 176): "I confess that I consider it a dangerous and unreliable practice to take fragments from speeches made in other cases away from their context and apply them as authoritative for the decision of a case the facts of which the authors could not have had within their contemplation; and the danger is well exemplified here where some of your lordships cite Lord PARKER'S phrase in support of conflicting views." It is indeed unusual for such a protest to be made in such a place, but it fixes attention upon a practice which is not only "dangerous and unreliable," but also a growing one. Indeed, it is the logical outcome of the modern method of using precedents. In the old days counsel would merely state the principle enunciated by the case upon which they relied and left it to the judge to read the report. Now, of course, the prevailing custom is for counsel to read out such passages as he thinks fit—often only to hear his opponent read the very next passage a few minutes later in support of the opposite view. Perhaps the remarks of Lord RUSSELL, if supported by other judges, will result in a return to the older practice. If this should happen it will be a black day for the advocate arguing a poor case, for his most powerful aid in trouble will be removed.

The King's Proctor.

IT is doubtful whether the King's Proctor has ever before figured in a "Saying of the Week," viz., "The whole theory of the King's Proctor in divorce was conceived by those with dirty minds . . . who revelled in the discovery of secret scandals and were opposed to divorce in principle." Here speaks the disgruntled divorce reformer! He has our sympathy, but although one may relish that apothegm and such language as "all the clotted nonsense that masquerades as ecclesiastical tradition," those of us who are lawyers know differently. We know that ecclesiastical tradition is the sound basis of a system now statutory which on the whole deals admirably with the delicate questions arising out of matrimonial misconduct, and that so far from being clotted, it is in judicial hands developing from day to day. The "whole theory of the King's Proctor in divorce" is the whole theory that the process of the Court shall not be abused by the subject with impunity, and the Attorney-General in directing the King's Proctor to intervene in a collusive divorce suit is only concerned with achieving that end. The facts having been brought to the notice of the Court, the King's Proctor is *functus officio*, the ultimate fate of the parties to the suit being in the hands of the Court, and only where there is lack of mitigating circumstances is the decree in practice ultimately rescinded. Thus the grievance of the general public against the King's Proctor is imaginary; but its roots may be found in impatience at the narrow grounds of relief in matrimonial cases, in the tendency of the man in the street to regard lack of candour in the Divorce Court as being in quite a different category from like conduct in civil or criminal matters, and the fact that in some walks of life the "arranged" divorce is a commonplace of social existence. It is a pity, in view of the increased lawlessness in this country, that it is not more generally realised that the whole fabric of the administration of justice is undermined when two parties to a collusive divorce are in a position to congratulate themselves on having hoodwinked the Divorce Court.

Business of Courts Committee.

INTERIM REPORT.

AN interim report of the Committee appointed by the Lord Chancellor on the 9th December last to consider the state of business in the Supreme Court has been made and was published by the Stationery Office as a White Paper on 8th March. The Committee which under the chairmanship of Lord Hanworth, M.R., consists of Lord Wright, Swift, Talbot and Clauson, JJ., Mr. Henn Collins, K.C., Mr. H. A. Dowson, Sir Philip Martineau, Mr. Wilfrid Lewis, Sir Claud Schuster, K.C., and Mr. J. E. Singleton, K.C., have come to certain unanimous conclusions which it was thought should be presented to the Lord Chancellor as early as possible "in view of the legislative and other action which will be necessary if effect is to be given" to the recommendations. Only the barest summary of these can be attempted here.

The report is divided into five parts, of which the first deals with procedure. The Committee accept the view that the experience of the working of Ord. XIV during the past half century justifies the conclusion that its usefulness could be extended, and suggest that at the option of the plaintiff it should apply to all actions except those to which the New Procedure Rules do not apply. The Committee, while not accepting the suggestion that the scope of the New Procedure be extended beyond the cases included in Ord. XXXVIII A, are of opinion that there are some subsidiary, yet important, features in the new system which should be applied in varying degrees to cases which do not go into the New Procedure List; among them is the suggestion of the Bar Council in their Report on the Expense of Litigation in May, 1931, that the summons for directions should not be taken out before pleadings. In matters of Practice and Procedure, within s. 31, sub-s. (3) of the Supreme Court of Judicature (Consolidation) Act, 1925, there ought to be no appeal from the judge, save in exceptional cases. It is also recommended that the question whether a jury is to be summoned in a civil action should be left to the discretion of a judge. The Committee point out that while their suggestion does not eliminate or prevent trial by jury in civil cases, it leaves its application to the discretion of those best qualified to exercise it. It is further indicated that the proposal was foreshadowed in the Report of the St. Aldwyn Commission of 1913, and supported by experience gained in the war when juries were to a large extent relieved from the burden of attendance and in the Chancery Division and under the New Procedure Rules. The fixing of a day for trial and adherence to that date, which has been found practical in most cases in the New Procedure List, is recognised as an ideal at which the courts should aim, but it is not considered feasible to adopt the practice as normal with regard to cases in the General Lists. Order LIV A should be extended to cover the determination of a question involving the construction of a statute, the existing practice of taking out a summons to determine the meaning of a document being thus extended. Applications for a rule *nisi* which in the case of *certiorari* and *mandamus* which are at present heard in a Divisional Court, should (as is the existing practice in the case of prohibition) be made to a judge in Chambers. Order XIX, r. 9, which requires every pleading over ten folios to be printed should be altered so as to allow every pleading to be reproduced by some mechanical means. The need for the existing rule has, in the opinion of the Committee, disappeared owing to the excellence of "modern machine writing." The re-drafting and simplification of the existing rules of procedure is recommended.

Several recommendations are made in Pt. II of the Report which deals with Crown Proceedings. Procedure by specially endorsed writ under Ord. XIV should, in simple cases, be substituted for the existing method by writ of subpœna *ad respondendum* to recover sums due to the Inland Revenue. The county court should be available for Crown proceedings.

The ordinary procedure commencing by writ of summons should, in suitable cases, be substituted for procedure by English information. Facilities for determining what sum is due in respect of an estate in which he is interested should be available for the subject who at present is compelled to wait until proceedings are launched by the Crown and procedure by originating summons is advocated following a suggestion by Mr. A. M. Latter, K.C.

In Pt. III the congestion of business in the Lunacy Department, amounting "in many cases to a denial of justice," is adverted to and it is recommended that power be conferred on the Lord Chancellor, by order, to authorise officials in the department—duly qualified for appointment as Assistant Masters—to perform such of the duties of the Master or Assistant Master, as may be directed in the order.

Part IV advocates—as did the St. Aldwyn Commission—the abolition of the Grand Jury both at Assizes and Quarter Sessions, with the exception of the Middlesex Grand Jury, which stands on a different footing, but it is recommended that, in some circumstances, a judge have power to direct that no indictment be preferred in cases where he is of opinion that the evidence is not sufficient to warrant a charge being framed and presented to a petty jury.

In Pt. V, which deals with vacations, the Committee express a desire "to emphasise that all considerations of the interest and convenience of the Judges, the Bar and the Solicitors are relevant only as they affect the Public, for whose benefit the whole machinery of justice exists, and who are vitally concerned in its maintenance in the highest possible state of efficiency." In the light of this consideration, the Committee recommend the shortening of the Long Vacation by its termination on 30th September, but are averse from any extension of the five-hour daily sittings and from the curtailment of the Saturday holiday.

The Town and Country Planning Act, 1932.

By S. P. J. MERLIN, Barrister-at-Law.

Article V.

The powers of the Minister of Health to require the preparation or adoption or execution of town planning schemes by local authorities who may be inactive or dilatory will be found in ss. 36 to 38 of the Act. As Mr. W. Ivor Jennings says in his excellent treatise on this statute, s. 36 provides "the big stick which is always inserted in a modern local government statute to enable the Central Government to control a local authority where it is considered to be necessary."

Where the Minister is satisfied, after the holding of a local inquiry, that a scheme ought to be prepared by any authority as respects any land, he may by order require the authority to prepare a scheme and to take such steps as may be necessary for bringing it into operation, and the order of the Minister shall have the same effect as a resolution to prepare a scheme for the area to which the order relates passed by the authority and approved by the Minister. And if the authority fail to prepare a scheme to the satisfaction of the Minister, he may himself act in the place and at the expense of the authority.

Where a town planning scheme is proposed by owners of land and the Minister is satisfied that it ought to be adopted, he may, after an inquiry and on being satisfied that the authority have failed to adopt it, order the authority to adopt it, or if he likes he can himself approve the proposed scheme, and such scheme shall be deemed to have been adopted by the authority and approved by the Minister.

In s. 37 it is provided that the Minister may prescribe regulations as to the procedure to be followed in the preparation or adoption of schemes and orders, other than compulsory purchase orders.

Local Inquiries.

When the bill of this Act was before Parliament it was promised that "a plan cannot be finally adopted without at least two public inquiries in the locality concerned." Section 38 in dealing with these local inquiries enacts that the Minister, for the purposes of the execution of his powers under this Act, may cause to be held such local inquiries as are directed by this Act and such other local inquiries as he may deem fit, and the provisions of the P.H. Act, 1875, shall apply to any local inquiry which he may cause to be held in pursuance of this Act.

Appeals to Quarter Sessions.

There is provision in s. 39 of the Act that any person aggrieved by the decision of a court of summary jurisdiction, in a case under this Act, may appeal against that decision to quarter sessions, and for the purposes of such appeal any such decision shall be deemed to be an order of a court of summary jurisdiction.

Moreover, there is power under s. 40 of the Act to refer disputes to arbitration wherever an appeal lies, or an application may be made to a court of summary jurisdiction. Parties to such an appeal or application may agree either that the matter in dispute shall be determined by the Minister, or that it shall be referred to the arbitration of such person as may be agreed upon or, in default of agreement, appointed by the Minister, and the parties may agree that the award shall be final on all questions, whether of law or fact.

Provisions Relating to Advertisements and Hoardings.

The resentment which gradually but surely grew up in the minds of all who were compelled to gaze upon the unsightly hoardings and advertisements which disfigured our countryside and elsewhere is now reflected in the provisions—new so far as Town Planning Acts are concerned—of s. 47. Under this section a planning authority may include provision in a scheme specifying certain land as land to be protected in respect of advertisements. Where this is done the authority may (where it appears that an advertisement displayed or hoarding set up seriously injures the amenity of land specified in the scheme) serve upon the owner of the offending advertisement or hoarding a notice requiring him to remove it.

Where a person upon whom such a notice is served desires to allege that the advertisement does not seriously injure the amenity of any such land, he may appeal to a court of summary jurisdiction, and if on any such appeal the court are satisfied that the advertisement does not seriously injure the amenity the court shall allow the appeal, but if not so satisfied, it shall dismiss the appeal and the advertisement must be duly removed. If the owner does not duly comply with the notice to remove then the authority may enter upon the land, remove the offence, and recover the cost thereof from the owner.

But, on the other hand, a scheme may contain provisions enabling the planning authority to authorise the display of any particular class of advertisements, either unconditionally or subject to any conditions in respect of the position or manner in which, or the period during which, the advertisements may be displayed, and conferring upon any person aggrieved by a decision of the planning authority a right of appeal to a court of summary jurisdiction.

But the powers conferred on the authority shall not be exercisable, generally speaking, in respect of advertisements which relate solely to a trade or business carried on, or to an entertainment, meeting, auction or sale to be held upon or in relation to the land upon which the advertisements are displayed, and which conform with any provisions contained in the scheme with respect to the size, position and manner of display of such advertisements.

Moreover, there is a period of five years' grace given to hoardings erected before the date when the resolution to prepare or adopt the scheme took effect.

Per Quod Servitium Amisit.

TORTS are divisible into two categories: In the one class, actual damage is not an essential part of the cause of action, the legal right is an absolute one, and the plaintiff is entitled to damages for the mere infringement of his right; in the other class, the right is a qualified one merely and no action will lie without proof of actual damage. Trespass affords a ready example of the first kind of tort, and negligence and fraud are illustrations of the second.

To which of these classes does the action for enticing away a servant belong? Although possibly a little late in the day, it may seriously be asked whether it is strictly necessary for the plaintiff in such an action to prove damages at all beyond the mere loss of service. It is said (e.g., Batt, "Master and Servant," p. 245; Clerk and Lindsell on "Torts," p. 201), on the authority of *Robert Marys's Case* (1612), 9 Co. Rep. 111b, that damages must be proved by the erstwhile master who sues for enticement; but the report of that case merely states (at 113a): "And, therefore, if my servant is beat, the master shall not have an action for this battery, unless the battery is so great that by reason thereof he loses the service of his servant . . . ", which merely serves to point out the necessity of proving the allegation (commonly expressed by old pleaders in the words "*per quod servitium amisit*") that by reason of the defendant's misconduct the plaintiff had lost the services of his employee. *Hart* v. *Aldridge* (1774), 1 Cowp. 54, is also adduced as deciding that injury to the master is essential to this cause of action, but this appears to be merely a matter of words, for as was said in *Lofft's* report of the same case (*sub. nom.* "Action at Common Law," at p. 495): "Every man is entitled to one"—i.e., an action—"who has sustained damages by wrong: Therefore, if a servant be retained for any special work and departs from this unfinished, an action will lie against anyone who seduces him to depart."

The statement of Littledale, J., in *Hodsoll* v. *Stallebrass* (1840), 11 Ad. & Ell. 301 (an action by a master against a third party for personal damages inflicted on his apprentice rendering the latter physically incapable of working), that, "Without the special damage the action would not be maintainable at the plaintiff's suit," was purely *obiter*, and the question in that case was whether the court could award prospective damages in respect of disability which (it was agreed) would continue in the future. But the *gist* of the case was the loss of service and the awarding of damages for that loss; and, indeed, a careful examination of the words used by Littledale, J., would seem to indicate that when he spoke of "injury" he meant the physical disabilities of the apprentice, and that by "special damage" he was, in fact, referring to the loss by the master of the apprentice's services. This is borne out by the concluding words of the judgment: "A fresh action could not be brought unless there were both a new unlawful act and fresh damage"—that is to say, the infliction *de novo* by the defendant of physical injuries on the apprentice and the loss *de novo* of his services by the plaintiff. But there appears nothing in the report indicating the *necessity* of the plaintiff's proving anything beyond that loss.

The question is by no means one of academic interest only. The cases are legion in our courts where it is submitted on behalf of the defendant, at the close of the evidence for the plaintiff, that there is no case for the defendant to answer inasmuch as no actual damage has been proved; and in such cases, and, indeed, in many other circumstances, the question as to whether or not it is incumbent upon the plaintiff to prove actual damage becomes of vital and very practical importance. It is submitted that the gist of the action under consideration is the loss of service through the machinations of the defendant and that beyond this loss no special damages need be proved. As was said by Lord Macnaghten in *Quinn* v. *Leathem* [1901] A.C., at p. 510: ". . . a violation of legal right committed knowingly is a cause of action, and . . . it is a violation of legal right to interfere with contractual relations recognised by law, if there be no sufficient justification for the interference."

If the view here put forward be the correct one, it is, nevertheless, limited in one respect. In *Bird* v. *Randall* (1762), 3 Burr. 1345, where the servant had already paid his master the penalty of £100 agreed upon between them for breaking his contract of service, Lord Mansfield held that no action would lie by the master against the party inducing the breach, saying (at p. 1352) that, "if the seducer or second master who employs the servant after the servant has paid the penalty, were to be liable to damages in an action brought by the first master for so doing, this would finally fall upon the servant, and in effect be an addition to the penalty; for . . . if the second master must pay a sum of money to the first master for damages for entertaining his servant, he will make his bargain with the servant in such manner as to pay him so much less." This *ratio decidendi* carries with it little intellectual conviction, and it has been much criticised (*vide* Smith, "Master and Servant," pp. 97-98). In *Godsall* v. *Boldero* (1807), 9 East. 72, Lawrence, J., commenting on the decision in *Bird* v. *Randall*, said: "I suppose the court proceeded on the ground that the penalty was by the express stipulation of the parties made an equivalent for the loss of the service," which comment evoked from Lord Ellenborough the observation (at p. 78), "That is so as between the parties themselves; but it may admit of doubt whether that were the fair way of considering it as against a stranger, a wrongdoer." The decision was, however, approved of in *Brunsden* v. *Humphrey* (1885), 14 Q.B.D. 141, and it must now be recognised as "an answer to an action for seducing a manservant from his service, that penalties had previously been recovered by the master in satisfaction of the injury done him" (*ibid.*, per Bowen, L.J., at p. 147).

Batt (*supra*, at p. 245) regards *Bird* v. *Randall* as illustrating the necessity for proving damage in an action for enticement. It is again submitted that no such necessity arises, and that *Bird* v. *Randall* can, at most, be regarded merely as a doubtful decision applicable only to certain peculiar circumstances.

Company Law and Practice.

CLXXII.

ALTERATIONS TO THE MEMORANDUM.

I MAKE no excuse for returning to the theme suggested by the case of *Re The Scientific Poultry Breeders' Association, Ltd.*, already referred to in this column, and now fully reported in [1933] 1 Ch. 227. *Prima facie*, the memorandum of a company may be placed in the same category as the laws of the Medes and Persians, but there are certain exceptions from its general inflexibility. The most common of these exceptions are so common that to many people it might not occur that they do constitute alterations of the memorandum of association; the powers conferred upon a company by s. 50 of the Companies Act, 1929, to increase its capital, consolidate, and sub-divide, and so forth, all necessitate, if exercised, an alteration of the memorandum.

So also, of course, does a reduction of capital, but as that requires the sanction of the court, it hardly seems to fall in quite the same category. Changing the name of the company is also an operation which involves an alteration of the memorandum—see s. 19 of the Act—and though the consent of the court is not necessary, the approval of the Board of Trade is. But alteration of the memorandum usually denotes an alteration with respect to the objects, which is perhaps the most troublesome kind of alteration. The statutory provisions as to this kind of alteration are contained in s. 5; and the Act of 1928 has introduced certain extensions of the original

section to enable it to be more conveniently applied; those extensions I have already referred to, and they need not be now further considered.

The alteration which the section permits must be an alteration with respect to the objects of the company, so far as may be required to enable it to do various things set out in the section; but the jurisdiction of the court is limited to sanctioning alterations required for any of those purposes, and is not a general jurisdiction, such as that in connection with the reduction of capital, which enables the court to sanction any reduction of capital. The court has tended, in the past, to take a strict view of the section; and this tendency is doubtless justified, for if a company is formed with certain objects, it would seem reasonable to say that it must not be allowed to range at will over the whole field of human endeavour.

Thus, in *Re Cyclists' Touring Club* [1907] 1 Ch. 269, the court refused to sanction an alteration which would, in effect, have changed the whole scope of the business of the company; it was formed to look after the interests of cyclists, and the proposed alteration, to include motorists within the scope of its activities, was held not to be capable of sanction under the Act, as it would have effected a fundamental change. This decision seems to involve the proposition that the interests of motorists and cyclists are fundamentally opposed, a view upon which there might well be some divergence of opinion. The case of *Incorporated Glasgow Dental Hospital* v. *Lord Advocate* [1927] S.C. 400; [1927] S.L.T. 270, shows that an alteration to the memorandum may be sanctioned, whether or not it be an alteration to the clause usually known as the objects clause. Finally, to clear the ground for a further reference to *The Scientific Poultry Breeders' Association Case*, there is the decision of Russell, J., as he then was, in *Re The Society for Promoting Employment of Women* [1927] W.N. 145. This last-named society was of the type which, under licence from the Board of Trade, dispensed with the use of the word "limited" as the final word of its name. What it proposed to do was to cancel a paragraph in the memorandum to the effect that if the society acted in contravention of paragraph 4 of its memorandum (which was a paragraph requiring the income of the society to be applied solely for the promotion of its objects) the liability of the members of the committee, and of every member who received any profit, should be unlimited. The Board of Trade raised no objection to the proposed alteration, but Russell, J., held that such alteration was not one with respect to the objects of the company.

From this we may turn to the *S.P.B.A. Case;* it was a company limited by guarantee, its memorandum containing the clauses usually inserted therein with a view to obtaining a licence from the Board of Trade to dispense with the word "limited"; this licence, however, had been refused for reasons not material to be here stated. One provision of the memorandum which gave rise to difficulty was that which prohibited the payment of remuneration to, or the division of any profits among, the members of the governing body; while the prohibition against the distribution of profits among the members was not satisfactory. So far as the governing body was concerned, the operations of the society had so far increased since its formation that the members of the governing body found that they were unable to give the necessary time to the work unless they were paid, while, with regard to the distribution of profits to members, a scheme was contemplated which might involve such a distribution.

The primary objects were to improve breeds of poultry and to promote more scientific methods in feeding, housing and breeding them. Clause 3 (K) of the memorandum was in these words: "to establish, manage, supervise or conduct any scheme or schemes by which members of the association may be enabled to buy or sell to the best advantage poultry, poultry produce, poultry food and other things of any kind relating to the poultry industry, or for all or any of the foregoing purposes."

It was proposed to add a proviso to the effect that nothing in the clause prohibiting the distribution of profit to the members should prevent any member of the association deriving any profit or other advantage from or under any scheme or schemes under cl. 3 (K); and to add an objects clause to remunerate members of the association or governing body for work done or services rendered to the association. The Court of Appeal sanctioned such alteration, and distinguished *Re The Society for Promoting Employment of Women, supra*, though the distinction appears to be fairly fine.

What Russell, J., was there dealing with was an application which would have cancelled the sanction on which a certain limitation of the company rested, says Lord Hanworth, M.R.: there was no reason for it, and he refused to allow the proposed alteration. There was, in that case, apparently no evidence as to the difficulty of obtaining satisfactory persons to serve on the committee if the alteration were not made, and it therefore could not be said to be concerned with an alteration "with respect to the objects of a company."

(*To be continued.*)

A Conveyancer's Diary.

Protective Trusts— *continued.*

I LEFT off last week with something in the nature of a warning to trustees regarding the exercise of their "absolute discretion" under cl. (ii) of sub-s. (1) of s. 33 of the T.A., 1925.

I have, the reader may remember, pointed out in another connection that "absolute discretion" is a delusive expression and is not to be taken too literally, as many an unsuspecting trustee, relying upon lawyers and draftsmen of Acts of Parliament to say what they mean, has learnt to his cost.

I must, however, stick to the subject in hand, and, indeed, need go no further to illustrate what I have just said than the cases which I mentioned in my last article.

Take, for example, *Re Neil* (1890), 62 L.T. 649. There the trustees had, it is true, not an "absolute," but an "uncontrolled" discretion as to the disposition of the income of funds in their hands, but in exercising that discretion ("uncontrolled" though it was) they found themselves landed with a liability to pay someone who had taken an assignment of something which did not in fact or in law exist. In that case the trustees had an uncontrolled discretion to apply the whole or any part of the income or accumulations of income of the trust funds for the support, maintenance or benefit of the settlor's son or his wife or children. The son assigned all his beneficial interest to the plaintiff in the action, who gave notice of the assignment to the trustees. Now, in fact, the son had no beneficial interest which he could assign, because until the trustees chose to pay him some part of the income there was nothing which he could at law or in equity demand or recover from the trustees. Nevertheless it was held that the fact that the trustees did pay some money to him was proof of that money having become his before it was so paid. If the trustees had not paid him that money he could not have called for a penny of it, but because they did pay him it became his before they paid it.

So it was also in other cases, some of which I have recalled to the reader's recollection in recent articles.

There was some discussion upon this point in *Re Clark: Clark* v. *Clark* [1926] 1 Ch. 833, but no decision upon it.

There a testator directed his trustees to hold a sum in favour of his son and his wife and issue "upon trust to invest the same and to pay to my said son . . . so much of the annual income thereof accruing due in his lifetime as would not, although the same were payable to him, be by his act or default or by operation of law so disposed of as to prevent his

personal enjoyment thereof, and to apply so much of the said income as would, if the same were payable to him, be disposed of as aforesaid for the benefit of his wife, children and other issue."

The son became bankrupt and the question turned upon the meaning of "accruing due."

Tomlin, J., held upon the construction of the will that there had been a forfeiture and that, so long as the bankruptcy continued, that forfeiture would remain operative in respect of each instalment of income. The learned judge said that, upon the construction of the will, there was some interest which passed to the trustee in bankruptcy, but that interest became forfeited in respect of each "block of income" when it accrued.

The point which I have just been discussing was not in fact decided.

This, however, is a digression from the course which I had set out to pursue, but one which I must, and will, take occasion to continue later on in this series of articles.

To return to the beaten track, there are some other cases bearing upon the discretionary trusts arising under clause (ii) or similar clauses expressly contained in a trust instrument to which I ought to call attention.

The first case is one which, if space had permitted, I would have mentioned last week and would better have preceded the general observations with which I then concluded.

In *Re Bullock: Good* v. *Lickorish* [1891] 64 L.T. 736, the facts were that a testatrix, in exercise of a power of appointment, directed that the trustees of a fund should stand possessed thereof upon trust to pay the income to her son during his life "or until he shall become a bankrupt or a liquidating debtor or cease to be entitled to receive such income or any part thereof for his own personal use or benefit by any means or for any purpose," and in case of any of those events happening "to pay to him or apply for his benefit during the remainder of his life" either the whole or so much only of the income as the trustees should, in their uncontrolled discretion, think fit, and subject to that interest the fund was given over to other objects of the power. The son assigned all his interest under the will of the testatrix, and notice was some time afterwards given to the trustees of the assignment. Later the son became bankrupt.

The trustee in bankruptcy made no claim, but the assignee claimed the income between the date of the assignment and the notice, on the ground that until notice the assignment was incomplete and there was no forfeiture.

On that point it was held that the cesser of the life interest took place as from the date of the assignment, not of the notice, and the assignee was not entitled to any part of the income.

Then, as between the son and the persons entitled under the gift over, it was held that the trustees had a discretion to apply the whole or any part of the income for the benefit of the son and those persons could only claim any surplus. Kekewich, J., being asked to define the limit within which the trustees might apply the income for the son's benefit, refused to do so. The learned judge said: "The discretion is vested in them and though, as already mentioned, they are entitled to the assistance of the court if a case of real difficulty occurs, they must exercise it, and so long as they exercise it honestly—that is as men of ordinary business habits and prudence and with due regard to all the circumstances of the case—the court will not interfere with them." It is worth noting also that the learned judge had in the course of the argument expressed the view that it would not have been proper for the trustees to pay the son's debts, but in his judgment his lordship said that he doubted whether he had been right in saying that, from which it may be inferred that in his opinion trustees might pay debts of an object of a discretionary trust if they considered it to be for his benefit to do so.

There is another point which should be borne in mind and was the subject of a recent decision. In the exercise of a special power of appointment the statutory clauses should not be introduced by appointing in favour of an object of the power "upon protective trusts," unless express provision is made limiting the objects of the discretionary trust arising upon forfeiture of a life interest to objects of the power and even then only if the power itself is so worded as to allow of a discretion being given to the trustees.

In *Re Boulton's Settlement Trust: Stewart* v. *Boulton* [1928] Ch. 703, the facts were that a testator in exercise of a power of appointment among children and issue contained in his marriage settlement, by his will directed the trustees to hold the income of part of the trust funds upon protective trusts for the benefit of his son O during his life, and subject thereto in trust for his grand-daughter M.

It was held by Eve, J., that as the appointment upon "protective trusts" gave a discretion to the trustees to apply the income in the event of a forfeiture for the benefit either of O or his wife or children it was, to that extent, void both as being a delegation of the power and in excess of it. The wife of O was not an object of the power and the discretion vested in the trustees under the "protective trusts" in the event of O forfeiting his life interest was a delegation to the trustees of the donee's discretion as to selection and distribution.

The appointment was, however, held to be valid to the extent of introducing cl. (i), so that the son, O, took only a life interest liable to forfeiture upon the events there mentioned, and that immediately upon such forfeiture taking place the appointment over to the grand-daughter took effect.

I am afraid that these articles on "Protective Trusts" have already extended beyond what I had intended, but there is still much which I have to say on the subject.

Landlord and Tenant Notebook.

Estoppel, Acquiescence, and Notice to Quit.

EITHER party to a periodic tenancy may be precluded by his conduct from denying the validity and effectiveness of a void and ineffective notice to quit. The operation of the doctrine of —or rather rule of evidence of—estoppel was recently illustrated in the case of a notice given, before completion, by a purchaser of the reversion to a farm (see the Agricultural Holdings Act, 1923, s. 57 (1)), but acted upon by both parties: *Farrow* v. *Orttewell* (1932), 49 T.L.R. 28; affirmed *The Times*, 23rd February, 1933. Similarly, acquiescence may evidence an agreement to dispense with proper notice. In this branch of the law the oldest decisions happen to be the clearest. Lord Kenyon had occasion, in successive legal years, to pronounce in favour of a landlord and a tenant, and the two cases are now contained in the same volume. In *Doe d. Eyre* v. *Lambly* (1794), 2 Esp. 635, the landlord had bought the property during the currency of the tenancy, a yearly one. The vendors were executors of a lunatic, and had no knowledge of the terms of the tenancy, but their solicitor had asked the defendant, who said it was a Lady-day one. Notice to quit was given by the new landlord accordingly; the defendant remaining in possession, this action was brought for ejectment, whereupon the defendant offered to adduce evidence that the tenancy was not a Lady-day one. His lordship ruled, however, that he had concluded himself from setting up a different holding, the information having led the landlord into error. In *Shirley* v. *Newman* (1795), 1 Esp. 265, the claim was for use and occupation. The defendant had given notice, at Christmas, of his intention to quit at Lady-day. The plaintiff on receiving the notice neither assented nor dissented, and the defendant left at Lady-day. Kenyon, C.J., held that the plaintiff having

acquiesced, there was an agreement that proper notice should be dispensed with. This judgment is not founded on estoppel.

What will amount to acquiescence was discussed in *Brown* v. *Burtinshaw* (1826), 7 Dow. & Ry., K.B. 603. The facts were somewhat peculiar. The defendant had let to the plaintiff a workshop, at an annual rent, and contracted to supply the necessary power as part of the agreement; the tenancy was determinable by three months' notice, but the agreement did not specify from when. The defendant had given, on 20th August, three months' notice to quit on 20th November; it does not appear that the plaintiff queried the validity of this notice, but, at all events, he remained in possession after 20th November, and the defendant cut off the power. At a discussion which took place on 19th January, the plaintiff said he would go and handed over the key, but when the defendant took the point that the notice was bad and rent was still accruing due, the plaintiff withdrew his offer. He now sued for the failure to supply power; it was held that if he had acquiesced he would have been barred, but his mere temporary surrender of the key, and that two months after the alleged notice had expired, did not constitute acquiescence, and he was entitled to damages if the notice was bad.

Unfortunately, in later cases the issue has been fogged, to use a popular expression, by arguments as to surrender *in futuro*. One would have welcomed a clear pronouncement as to estoppel in *Doe d. Murrell* v. *Milward* (1838), 3 M. & W. 328, an action for ejectment, in which it appeared that the defendants had given, at Christmas, a notice expiring at Midsummer; the notice had been received by the lessor without objection; then the defendants had given another notice, expiring at Christmas, and had stayed on when Midsummer came. It was not proved that the lessor had positively assented to the notice he first received; but this is all we are told that concerns estoppel, for the decision was that as there cannot be a surrender *in futuro* (a proposition based upon *Johnstone* v. *Hudleston* (1825), 4 B. & C. 922, and discussed in THE SOLICITORS' JOURNAL, Vol. 74, p. 134), the tenancy continued. It may, of course, be that the lessor had never encouraged the tenants to act upon the first notice to their detriment, and this would be an answer to a contention that the tenants could not dispute its validity. But while *Doe d. Eyre* v. *Lambly* was mentioned, *Shirley* v. *Newman* was not.

In *Bessell* v. *Landsberg* (1845), 7 Q.B. 638, the authority of *Johnstone* v. *Hudleston* was again invoked. The claim was for use and occupation. Both parties had acted upon a shorter notice to quit than the tenancy demanded, given by the defendant, but the plaintiff was held to be entitled to recover because there could be no surrender *in futuro*.

The most recent case which touches the subject is, perhaps, *General Assurance Co.* v. *Worsley* (1895), 64 L.J., Q.B. 253, though the problem was not approached from the viewpoint of estoppel or acquiescence. The defendant, who had been the plaintiffs' tenant, had written to their agents in January, 1892, saying he wished to terminate the tenancy and asking when it expired. They answered that they had looked the matter up and found that six months' notice, expiring in July, was necessary, so he held till July, 1893. Reversing the decision of the county court judge, Wills and Wright, JJ., held that the tenancy had determined on 1st July, 1893, as it was clear that both parties had so intended.

JUDGE AND EXPERTS' REPORTS.

During the recent hearing of a case, in which a report of five pages by an architect and surveyor was put in evidence, Mr. Justice Maugham said: "I am hoping that one day, in cases of this kind, where reports are made by experts on each side, each side will hand the reports of its experts to the other side for consideration before the case comes on for hearing. Such a practice will effect a great saving of time, and I am hoping to see a reform of that kind before I leave this Bench."

Our County Court Letter.

MARINE ENGINEERS AND WORKMEN'S COMPENSATION.

THE above subject was recently considered at Lowestoft County Court in *Blowers* v. *Coleby* in which the facts were as follows: (*a*) the applicant (without signing any articles) had shipped as an engineer in the drifter "Fisher Girl" on the 7th December, 1931, at 30s. a week; (*b*) he understood that, if the voyage showed a profit he would receive the same share as a hawseman, viz., £4 2s. 6d. per £100; (*c*) in fact a loss was incurred, and he was debited with £9 13s., which the respondent had not tried to collect; (*d*) the debit was not carried forward, and no attempt was made to collect a subsequent debit of £5. The applicant's case was that, being thus employed at a weekly wage (as opposed to being a share fisherman) he was entitled to compensation in respect of an accident in May, 1932. The respondent's case was that (*a*) the applicant was remunerated wholly or mainly by share in the profits or gross earnings of the vessel, (*b*) the weekly payment was an allotment on account of profits, and not wages. His Honour Judge Herbert Smith upheld these contentions, and judgment was therefore given for the respondent, with costs on Scale C. The test is whether the member of the crew is "wholly or mainly" remunerated by a share of profits, as laid down by the Workmen's Compensation Act, 1925, s. 35 (2). If the applicant is only "partly" remunerated by shares, he will be entitled to compensation.

THE SCOPE OF GREYHOUND WARRANTIES.

IN *Detheridge* v. *Drinkwater*, recently heard at Ross County Court, the claim was for rescission and for £21 13s. 10d. as damages for breach of warranty (or, alternatively, fraudulent misrepresentation) on the sale of "Mausley Smoker," a racing greyhound. The latter had been described as "a good dog, harmless, and will run straight," as it had run several times on the Wolverhampton track, and had won several prizes. The plaintiff (having been told there was "nothing against" the animal) had bought it for £12 10s., but, during its first race at the Eastville greyhound racing track (at Bristol), it snapped at the second dog and was accordingly disqualified. It then transpired that the dog had been suspended for seven days at Wolverhampton, but the defendant denied having been aware of this—as the identification book (containing the dog's record) was sent from track to track by the managers. It was further contended that (1) there was no fraudulent misrepresentation, as the plaintiff had not relied on the above statements, but had bought the dog after giving it a run; (2) the word "harmless" was not misleading, as the dog's disqualification had been removed, after three subsequent trials. His Honour Judge Kennedy, K.C., made an order for rescission, and gave judgment for the plaintiff for £16 13s. 10d. as damages for breach of warranty, including expenses of maintenance incurred after the purchase. The result was that the defendant was entitled to have the dog, which was still in the custody of the railway company.

DISTRESS IN VOLUNTARY WINDING UP.

IN the recent case of *In re Booth Brothers, Limited*, at Middlesbrough County Court, the landlord claimed £103 2s. (the proceeds of a distress for rent) as against the liquidator in the voluntary liquidation. The respondent relied upon the Companies Act, 1929, s. 264, but the applicant contended that this only applied to a compulsory winding up. His Honour Judge Richardson observed that, if certain words were wrongly inserted in the section, the latter could only be modified by statute. It was therefore held that the applicant was entitled to the above sum, but an adjournment was granted for the filing of further evidence by the respondent.

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to the Editorial Department, 29-31, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Injury to Farm Labourer.

Q. 2676. A farm labourer, employed permanently by a farmer and living in a cottage on property owned by the farmer, has to cross a main road after leaving his cottage in order to get to the main farm buildings for work. While crossing this road in order to commence his day's work he is knocked down by a motor-bicycle and dies from his injuries. Is this an accident arising out of and in the course of his employment so as to entitle his dependants to compensation under the Workmen's Compensation Acts? Would the answer be the same if the cottage in which the workman lived belonged to someone other than the farmer who employed the labourer?

A. The question is whether the accident happened while the workman was doing something, in discharge of a duty to his employer, imposed upon him by his contract of service. See *Dunning* v. *Binding* (1932), 174 L.T.J. 200. It is therefore necessary to ascertain whether the deceased was required to live in that particular cottage (for the better discharge of his duties) or whether he simply lived there because it happened to be near his work, and was vacant when he wanted it. If the latter is the reason, it is immaterial that the cottage happens to be owned by the employer, and the accident did not arise out of and in the course of employment. If, on the other hand, the deceased was required to live in that cottage, the accident arose out of and in the course of employment—even though the cottage belonged to someone other than the farmer who employed the labourer.

Third Party Procedure.

Q. 2677. In January A bought a motor from B. & Co. and paid them 50 per cent. of the purchase price. In May B. & Co. went into compulsory liquidation and the balance of the purchase money was then still due from A. C thereupon wrote A that the motor had been sold by B. & Co. as his, C's, agent and demanded payment of the balance of the purchase money to him, C, direct. B. & Co.'s liquidator admits that the motor was supplied to B. & Co. by C, but contends that C sold it to B. & Co., and that B. & Co. as principals and not as agents then sold it to A, and the liquidator is pressing A for payment. A is willing to pay the balance to whoever is entitled to it, but wishes to guard against the possibility of paying it to one party and then being sued by the other party. Will you please give us your opinion—

(1) What steps can A take to protect himself from this? and

(2) (*a*) Whether if the liquidator sues A in the county court, A could join C as a party so as to assure of his being bound by the judgment?

(*b*) If the answer is in the affirmative, how would the costs of the action be dealt with in the event of the liquidator succeeding?

A. A's best method will be to endeavour to effect an agreement between C and the liquidator, and to pay whichever of the two is thereby entitled to the money. A should obtain contemporaneously from the other party an indemnity against future demands for the same amount—in consideration of A's refraining from issuing an interpleader summons. If C and the liquidator are unable to agree, A should issue an interpleader summons under R.S.C., Ord. 57 (if in the High Court) or under Ord. 27, r. 15, if in the county court. In answer to the specific questions—

(1) A can take steps to protect himself by the above means.

(2) (*a*) If the liquidator sues A in the county court, A can issue an interpleader summons as above. In the county court A must wait to be sued, but he can issue a summons in the High Court before proceedings are started against him.

(*b*) The successful party (whether the liquidator or C) would be awarded costs, and A would also obtain his costs from the unsuccessful party.

Actual Possession of Controlled House.

Q. 2678. I act for a landlord of certain cottage property. One of the tenants gave notice to quit and left his house last year. This particular tenant was formerly one of the joint owners of the property, and also an occupier thereof, and I shall be glad to know whether, in your opinion, this fact would take the house outside the Rent Act. If it does, a further point is that this man gave notice to quit, and subsequently arranged to change houses with a friend. The landlord, whilst accepting the proposed new tenant, insisted on the key being first handed over to himself, and he actually entered and took physical possession of the house, although he did not stay there any length of time, and he did this whilst the change was taking place. My client is now desirous of obtaining possession of this house, but the tenant informs him that he has been advised that he is entitled to the benefit of the Rent Act and the house is not decontrolled.

A. The mere fact that the former joint owner (having become sole occupier) himself gave notice to quit, would not take the house outside the Rent Act. It is assumed that no question arises under the Rent Act, 1920, s. 12 (*g*), of the former tenant having been a member of the family of a deceased statutory tenant, so as to effect decontrol on the departure of the surviving occupier. The further question, as to the landlord having taken the key and entered the house, does not therefore arise, but the opinion is given that no decontrol was effected. It is observed that the landlord merely entered while the change was taking place, so that he apparently lost no rent, and there was no space of time (measured in days) between the two tenancies. The result is that the new tenant is protected by the Rent Act.

Housing Act, 1930—Clearance Order pending—Position of Mortgagees.

Q. 2679. Clients of mine are mortgagees of property "protected" under the "Rent Acts." They have reason to believe that a clearance order is to be served under the Housing Act, 1930, for demolition of the property. Can you suggest any steps that they might take to secure their principal and interest? It would seem that, even when the order is made, they will not be able immediately to call the mortgage in, since apparently the property will still be protected by the Rent Acts, at any rate until s. 59 of the Housing Act (which, in effect, states that the Rent Acts shall not prevent possession from being obtained for the purposes of the Housing Act) takes effect in the area in question.

A. The only remedy—for what it is worth—open to the mortgagee is contained in the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, s. 7 (*c*)—namely, to assert his legal rights as a mortgagee on the ground that the mortgagor has not kept the property in a proper state of repair.

Correspondence.

Novelists and the Law.

Sir,—In your editorial note in this week's Journal on "Novelists' Law" you refer to some of the further letters in *The Times* wherein the accuracy of the law in certain of John Galsworthy's works is questioned, and you dispose of the doubts raised. You do not, however, deal with the charge of inaccuracy made by a correspondent of *The Times* on the 18th ult. in respect of the proceedings at the company meeting described in "Old English." The writer, in *The Times*, complained that in Act I, Sc. 2, of the play referred to the annual general meeting of a public company is concluded without the question of appointment or re-appointment of the auditors being dealt with. The scenes in the play are not dated, but the title, and the classification of Heythorp by Brownbee with "the early Victorians," are sufficient to date the action in the play as prior to 1900. The appointment of auditors at the annual general meeting was not a statutory requirement until so made by the Companies Act, 1900. Galsworthy cannot be at fault in omitting what the law did not require to be included. The writer further complained that at the same meeting shareholders were asked to ratify a transaction of less than twenty-four hours earlier, "although in no circumstances could such ratification have been asked for at less than seven days' notice." One ventures to inquire the authority upon which the writer based the statement quoted. Turning again to the Companies Act, 1862, to which the "Island Navigation Company" would presumably be subject, all that was required was that the company should hold a general meeting in each year. There was no provision in law (apart from Table A) as the writer suggested which required seven days' notice to be given of the meeting and of the business to be transacted thereat. Any requirement as to notice would be a provision of the company's articles. In the unlikely case (in a company which Mr. Heythorp dominated) of there not being special articles, notice would have been necessary under Table A, but in that case, if due notice had not been given, one rather suspects that the solicitor, Mr. Charles Ventnor, would have at once challenged the proceedings.

Chancery-lane, W.C.2. HERBERT W. JORDAN.
6th March.

Sir,—Referring to Mr. Martin Wells' letter in your present issue, on the subject of the legal problem involved in "The Motor Rally Mystery," and as touching the common accident, the author seems also to have overlooked s. 184 of L.P.A., 1925, always assuming that such accident occurred after the Act came into force.

Liverpool, JAY CEE.
4th March.

"Too many Charities."

Sir,—With reference to the article under the above heading which appeared in your issue of 18th February, at p. 108, no scheme to narrow the legal interpretation of the word "charity" would be effective unless the legislation to carry it through also neutralised the authority of *Bowman* v. *Secular Society, Ltd.* [1917] A.C. 406. In that case the assumption was made that the respondent company was formed to disseminate anti-Christian propaganda, but a bequest to it was held valid, as a bequest to an incorporated body which was on a legal basis. If money could validly be left to such a body and denied to another formed for proselytising to a particular Christian sect, it would be manifestly unfair, but of course the excluded charities would at once turn themselves into limited companies to take advantage of the decision. The object of limiting charities could therefore only be achieved if bequests to or settlements on limited companies were disallowed, unless such companies were wholly within the new and stricter definition of charity. There would, of course, be no hardship in such legislation, for the ordinary testator does not wish to bequeath legacies to limited companies unless they have a charitable basis.

A. F.

The "Rent" Acts.

Sir,—Referring to "Point in Practice" No. 2663 on p. 137 of your issue of the 25th ultimo, it is to be noted that Greer, L.J., is reported to have said in *Lovibond & Sons* v. *Vincent* [1929] 1 K.B. (at p. 696): "It seems to me to be impossible to say that a person who has disposed of all his property by will can be an intestate within the meaning of these [the Rent] Acts."

Chancery-lane, W.C.2. HOWE & RAKE.
7th March.

Obituary.

MR. F. A. ANGLIN.

The Right Hon. F. A. Anglin, who retired recently after many years as Chief Justice of the Supreme Court of Canada, died on Thursday, 2nd March, at the age of sixty-seven. Admitted to the Ontario Bar in 1888, he was created a K.C. in 1902, and was appointed a Puisne Judge of the High Court of Ontario in 1904. He was promoted to the Supreme Court of Canada in 1909, and became Chief Justice in 1924.

SIR THOMAS O'SHAUGHNESSY, K.C.

The Right Hon. Sir Thomas O'Shaughnessy, K.C., the last Recorder of Dublin, died at Dublin on Tuesday, 7th March, at the age of eighty-two. Called to the Irish Bar in 1874 and to the English Bar in 1894, he practised first in Connaught and afterwards on the North-East Circuit. He became Recorder of Dublin in 1905, and when the Recordership was abolished in 1924, he was appointed a Judge of the High Court of the Free State. He resigned the following year, and was knighted in 1927.

MR. V. J. H. ELIOTT.

Mr. Victor John Herbert Eliott, barrister-at-law, of Harcourt Buildings, Temple, and of Hampton Court, died on Sunday, 5th March, at the age of forty-two. Mr. Eliot was called to the Bar by the Inner Temple in 1914.

MR. S. E. AGATE.

Mr. Sidney Evershed Agate, solicitor, partner in the firm of Messrs. T. Howell Davies & Co., of Carmarthen, died on Monday, 27th February, at the age of fifty-one. Articled in Manchester, he was admitted a solicitor in 1906, and went to Carmarthen in 1918 as managing clerk to Mr. T. Howell Davies. Mr. Davies died in 1930, and Mr. Agate then entered into partnership with Mr. A. R. Ledbury and Mr. T. D. M. Steel as Messrs. T. Howell, Davies & Co.

MR. F. S. BARDSLEY.

Mr. Frank Stanley Bardsley, solicitor, of Southport, died at his home at Birkdale, on Friday, 24th February. Admitted a solicitor in 1921, Mr. Bardsley was a partner in the firm of Messrs. A. J. Mawdsley & Co., of Southport. He was also a member of the Southport and Ormskirk Law Society.

MR. A. HOWE.

Mr. Albert Howe, J.P., retired solicitor, of Sheffield, died on Sunday, 5th March, at the age of sixty-nine. Admitted a solicitor in 1885, he immediately started to practise on his own account. In 1910 he took into partnership Mr. George E. Smith, who had then been associated with him for many years, and later his eldest son, Mr. Philip Howe, became a

partner. Mr. Albert Howe retired in 1918, when he was appointed Registrar. He was President of the Sheffield Incorporated Law Society in 1921.

MR. J. A. HUDSON.

Mr. James Arthur Hudson, solicitor, Registrar of Rochdale County Court, died at his home at Littleborough, on Wednesday, 1st March, at the age of seventy-four. He was admitted a solicitor in 1884, and became a partner in the firm of Messrs. Brierley & Hudson. His partnership with Mr. Brierley was dissolved in 1896, and since then Mr. Hudson had continued to practise on his own account under the same title. He became Registrar of the Rochdale County Court in 1910.

In Lighter Vein.

THE WEEK'S ANNIVERSARY.

Thomas Erskine (junior), if not exactly born in the ermine, had a fair start in the race for legal pre-eminence. He made his appearance on earth at Number 10, Serjeants' Inn, Fleet Street, on the 12th March, 1788, at a time when his father was approaching the summit of his reputation at the Bar, although the Woolsack was still eighteen years ahead. When this goal was attained, the first benefit passed on to young Thomas was a comfortable little employment called the Secretaryship of Presentations. Though his education was thereby interrupted, this was of minor importance, since, being now the son of a peer, he was, according to the quaint custom of the time, eligible for the degree of M.A. without examination or residence at the University. Having joined Lincoln's Inn, he became a "Chitterling" as Charles Lamb used to call the pupils of his friend Joseph Chitty, founder of the legal tribe yet flourishing to-day. Called to the Bar, Erskine was still fortunate. His practice was excellent; he took silk and when the Court of Bankruptcy was established in 1831, he was appointed Chief Judge of the Court of Review over the heads of his senior colleagues. In 1839, he succeeded Park, J., in the Common Pleas, but here misfortune overtook him. Congestion of the lungs, resulting in the rupture of a blood vessel and tubercular disease of the lungs, forced his early resignation, though, almost miraculously, he survived twenty years in retirement.

THE KING'S PROCTOR.

Since Mr. Justice McCardie, across the dinner table of the Eugenics Society, expressed the hope that the King's Proctor's "repulsive duties" would soon be swept away, one of His Majesty's faithful Commons had questioned the appropriate Minister as to the alleged use of the police force by His Majesty's unhappy Proctor for the purposes of his investigations. In the the same place his future survival has also been tilted at besides being wildly assailed in the press. It does not seem to be generally known that this official is a human being and these straws in the wind recall a rather whimsical story concerning (I think my memory serves me well) the late Honourable Clive Lawrance. He had met at a party and escorted home a lady who as petitioner in a divorce suit happened at the time to be standing between her *nisi* and her absolute decrees. When they reached her door, she said "I'm so sorry, I dare not ask you in for a drink. You know what sort of a mind the King's Proctor's got." "I do," he replied. "You see, I am the King's Proctor."

SUMMARY JURISDICTION.

On the second reading of the Summary Jurisdiction (Appeals) Bill, one of the speeches cited an amusing story of how a bench of magistrates unanimously in favour of acquitting a prisoner were forced to convict him because the clerk who took the opposite view stood with his back to the door and would not let them out till they changed their minds. Presumably, greater facilities for review will react in favour of more careful decisions. At any rate, there will be little to fear from gentlemen whose minds work in the fashion of that more than summary justice who once sentenced a prisoner as follows: "Prisoner stand up. According to the law and the evidence—and there is no evidence—I find you guilty and I fine you forty shillings. If you're guilty, it is a very light sentence, and if you're not guilty, it will be a mighty good lesson for you and cheap at the money." However, all in all, the Great Unpaid perform their public service at least as adequately as the average jury. Their critics might profitably study the report on the justices of Middlesex furnished to Lord Chancellor Hardwicke in 1740. Here are some of the portraits. Anthony Wroth had ruined himself by gaming; was lately a prisoner in the Fleet for debt; since he came out of prison he opened a shop in Red Lion Street, Clerkenwell, and let out part of the house to a woman of ill-fame. One Sax was very poor and scandalous, lately a prisoner in the King's Bench for debt; "now skulks about blind alehouses . . . and takes affidavits near the Victualling Office."

Practice Note.

DEBTORS ACT (MATRIMONIAL CAUSES) JURISDICTION ORDER, 1932.

We have received from the Senior Registrar a copy of the following Directions issued by the President, which would appear self-explanatory:—

JUDGMENT SUMMONS: COMMITTAL ORDER.
APPLICATION TO ISSUE.

It is directed by the President that when a judgment debtor fails to comply with the conditions upon which a committal order against him has been suspended, application may be made forthwith that the order shall issue. The application must be in the form of a certificate signed by the solicitor for the judgment creditor, setting out:—

(1) That the making, terms and effect of the committal order were communicated to the debtor by registered post to his last known address. This is necessary, even if he was present at the hearing.

(2) That he has failed to comply with the conditions on which the order was suspended.

This certificate must be lodged with the Court Registrar, who will arrange with the Clerk of the Rules, and will endorse the day and time when the application will be in the list. At the hearing the solicitor must produce a further certificate that he has given four clear days' notice, by registered post, of the day and time of the application.

W. INDERWICK,
Senior Registrar.

Reviews.

The Journal of Comparative Legislation and International Law. February, 1933. London: The Society of Comparative Legislation. 6s.

The British Commonwealth of Nations provides the subject of two articles in this issue. "Thirty Years' Working of the Australian Constitution" is examined by Mr. Stephen Mills, and the "Equality of Status of the Dominions and the Sovereignty of the British Parliament," by Dr. H. ver Loren van Themaat.

Dr. Stallybrass compares the general principles of criminal law in England with the new Italian criminal code. There

are useful contributions on American administrative law, and other subjects of interest.

Under the title of "A Model Extradition Treaty," Mr. Albert Lieck takes occasion to discuss very serious defects in the system of extradition at present existing. The subject is an important one in a world which, socially, is contracting, to the favouring of the criminal; and the remedies suggested are worthy of consideration by those in authority. It is better to remove substantial obstacles to the efficiency of extradition, rather than to tidy them away under the façade of a general convention.

An Historical Introduction to English Law and its Institutions. By HAROLD POTTER, Ph.D., LL.B., Dean of the Faculty of Laws at King's College, London. 1932. Medium 8vo. pp. xxvi and (with Index) 600. London: Sweet & Maxwell, Ltd. 20s. net.

Ten years ago Mr. Potter brought out a small volume under the title "An Introduction to the History of English Law," which, judging by the well-thumbed copy in the library of the Inn of Court of which the present reviewer is a member, obviously proved to have been exceedingly useful to those starting off in their career for call to the Bar. Certain portions of that earlier book have been incorporated in the present volume which, however, owing to its amplification, both in treatment and in size, can be regarded as in reality a new work. Printed in clear type and well arranged, it is a pleasure to read and should obtain a larger measure of appreciation than its predecessor. Its purpose is to offer to those using it an introduction to the sources of and to unfold the slow but sure development of English law from primitive ideas and a procrustean formalism to the flexible system of responsiveness to the needs of the community of to-day—a large subject, truly, but the study of which the author quite justifiably calls "fascinating." Part I takes a preliminary survey of legal development; Pt. II treats of the history of judicial institutions—the early judicatories and their modern successors; Pt. III deals with the history of the common law, its sources, procedure, the subjects of crime, tort, contract, and the law of property; Pt. IV contains a general outline, and a statement of the main principles, of equity. All these are expounded with clearness and accuracy, and should be found particularly helpful to the student. There is a fairly full discussion of the mental element in tort which is interesting, as are also the sections devoted to the place assumpsit holds in the development of contract. We call attention to a few slips and offer one or two suggestions in response to the invitation of the author in the preface. Is it quite accurate to say, on p. 37, that a "limited power to dispense with laws was recognised by the Bill of Rights." No dispensation was thereby recognised, save that which might be granted by statute, which is a very different thing from that which we usually mean when speaking of the dispensing power. On p. 54 Blackstone is by a slip of the pen described as of the seventeenth century. On p. 102 the paragraph relating to Commissioners of Assize might have been expanded by describing those who may fill this position other than judges of the High Court. Lastly, on p. 104, the term "Trailbaston," might have been given a word of explanation. These, however, are very small specks on a very excellent book, which we can heartily recommend.

Books Received.

The Yearly County Court Practice. 1933 Edition. By EDGAR DALE, of the Middle Temple and South Eastern Circuit, Barrister-at-Law; ALUN PUGH, of the Inner Temple and South Wales Circuit, Barrister-at-Law; and ADAM PARTINGTON, Group Registrar of the Ilford, etc., County Courts. Demy 8vo. Vol. I. pp. ccxl and (with Index) 1776. Vol. II, pp. xvi and (with Index) 934. London: Butterworth & Co. (Publishers), Ltd.; Shaw and Sons, Ltd. 40s. net. Thin edition, 45s. net.

Notes of Cases.

House of Lords.

Owners of S.S. "Liesbosch" *v.* Owners of S.S. "Edison."

28th February.

SHIPPING—COLLISION—TOTAL LOSS—ASSESSMENT OF DAMAGES—PRINCIPLES APPLICABLE.

In November, 1928, the plaintiffs' dredger, "Liesbosch," was sunk through the negligence of the defendants, who admitted liability, the plaintiffs at the time being engaged in dredging operations in Patras Harbour under a contract with the harbour commissioners. The contract was a profitable one to the plaintiffs. The "Liesbosch" was the only dredger which the appellants had, and by reason of her loss the work under the contract was brought to a standstill until they hired another dredger called the "Adria," which the harbour board afterwards purchased and re-sold to the appellants. In those circumstances the total claim amounted to £23,514, and the Registrar allowed a total of £19,820, with interest. Langton, J., with one minor modification, affirmed the registrar's report. On appeal the respondents' contention was that the claim was too remote to be recoverable on the ground that it flowed from the impecuniosity of the appellants, and not from the sinking of the "Liesbosch." The Court of Appeal allowed the appeal and themselves assessed the damages. They fixed the value of the "Liesbosch" at £9,177 with interest, and disallowed every other claim.

Lord WRIGHT, in giving judgment, referred to the appellants' claim that their want of means must be taken into account, and said that in his judgment they were not entitled to recover damages on that basis. The impecuniosity was not traceable to the respondents' acts and was outside the legal purview of the consequences of those acts. The law could not take account of everything that followed a wrongful act. "It were infinite to trace the cause of causes." The true rule seemed to be that the measure of damages was the value of the ship to her owner at the time of the loss. On the whole he thought that Mr. Raeburn was right in urging that the matter should be referred back to the Registrar to ascertain the true value on the principles he had stated. The result was that the appellants had substantially failed in the appeal and should pay to the respondents three-quarters of their costs. The order of the Court of Appeal would be varied by substituting a judgment for such sum as the Registrar might find on reference back to him.

Lords BUCKMASTER, WARRINGTON, TOMLIN and RUSSELL concurred.

COUNSEL: *W. N. Raeburn*, K.C., and *Lewis Noad*, K.C.; *James Dickinson*, K.C., and *G. H. Main Thompson.*

SOLICITORS: *William A. Crump & Son; Thomas Cooper and Co.*

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.]

High Court—Chancery Division.

Jay's Ltd. *v.* Jacobi.

Eve, J. 6th February.

TRADE NAME—PASSING OFF—COSTUMIER'S BUSINESS—SIMILAR NAME ADOPTED BY DEFENDANT WHILE EMPLOYED BY ANOTHER FIRM—RISK OF CONFUSION—DISTINCTION FROM WORD "LIMITED"—NO FRAUD OR CONFUSION.

In this action the plaintiff company carried on a high-class and old-established business as ladies' costumiers in London and had no branch establishment. In 1931 the defendants, Mrs. Fay Jacobi and Miss Limburg, became partners in a ladies' costumiers business which had been opened by them at Hove under the name of "Jays." Six months after the shop had been opened the plaintiffs brought this action claiming an injunction to restrain defendants from using the

name " Jays " or any other name calculated to suggest that the business was that of the plaintiffs or connected therewith or that the goods sold were supplied by the plaintiffs. From the evidence it appeared that the defendant Jacobi had for some years been in the employment of a firm of costumiers carrying on business at Brighton with three branches, and eventually became manageress of the three branches. She used the name of " Jay," and was known to customers and staff as Miss Jay. In 1931 the firm employing the defendant went into liquidation, and after obtaining the second defendant as a partner she opened the shop at Hove for ladies' costumes, hats and dressmaking under the uame of " Jays."

EVE, J., said it was clear on the facts that the plaintiffs were not entitled to an injunction in the terms asked for. The defendants had acted innocently throughout. The defendant Jacobi had acquired the name of Jay by reputation and was entitled to use it, and could not be restrained from doing so even though the similarity of her adopted name to that of the plaintiffs might occasionaly lead to confusion (*Massam* v. *Thorley's Cattle Food Co.*, 11 Ch. D. 748; *John Brinsmead & Sons* v. *Brinsmead*, 30 R.P.C. 493). The name differed from that of the plaintiffs in the absence of an apostrophe before the final " s " in " Jays " and in the absence of the word " Limited." The defendant had complied in all respects with the requirements of the Registration of Business Names Act, 1916. Even if there were any confusion it would not be due to any misconduct of the defendants, and the plaintiffs had brought forward no evidence of confusion or mistake. The action would be dismissed with costs.

COUNSEL: *H. B. Vaisey*, K.C., and *J. V. Nesbitt*; *R. Moritz*, K.C., and *K. E. Shelley*.

SOLICITORS: *Lindus & Hortin*; *C. Butcher & Simon Burns*.

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.]

Burnham-on-Sea Urban District Council *v.* Channing and Osmond.

Maugham, J. 15th and 16th February.

LOCAL AUTHORITY BUILDING SUBSIDY CONDITION MAXIMUM PRICE—CONTRACT BY CORPORATION—HOUSING, &C., ACT, 1923 (13 & 14 Geo. 5, c. 24), s. 2 (4)—HOUSING (FINANCIAL POWERS) ACT, 1924 (14 & 15 Geo. 5, c. 35).

On the 1st January, 1927, the defendants, who were builders, applied to the plaintiffs for assistance in the erection of two cottages in accordance with the provisions of the Housing, &c., Act, 1923, and the Housing (Financial Powers) Act, 1924. The application, which stated that the selling price would be £625, including the subsidy, was accompanied by plans. On the 9th February the defendants, having proceeded with the building, applied for a certificate of qualification for the subsidy. A certificate was issued that the houses should qualify for a £75 subsidy and contained a condition that " the subsidy will be paid on the condition that the selling price or value of each house with land as shown on approved plans shall not exceed £550, or together with the subsidy £625, and the rental not to exceed 14s. a week." One of these houses was applied for by a man named Lang, who was told that the price was £550, but that he could not have it unless he also agreed to take various extras valued at £80. These included a tiled scullery floor in lieu of cement and a close-boarded fence. With this he unwillingly complied. In May, 1927, the defendants applied for and obtained assistance in respect of two other cottages. These they completed with the extras before any purchasers had applied for them, and sold respectively at £650 and £672 13s. This action was brought to recover the three subsidies paid to the defendants.

MAUGHAM, J., in giving judgment, said that it had been argued for the defendants that the words " selling price or value " in the condition did not refer to the price at which the houses could be sold by the builder, that this was supported by s. 2 (4) of the Housing, &c., Act, 1923, and also that the conditions imposed by the local authority must be *ejusdem generis* with the conditions specified in the sub-section. His lordship considered that the sub-section was wide enough to cover the present condition. If the words did not impose a maximum price the whole provision would be rendered nugatory and the system reduced to a farce, since the builder would be able to take advantage of the housing shortage to charge extra and the working-classes would get no benefit. It had also been argued that this subsidy was a gift subject to a condition subsequent which was bad as being in restraint of alienation, but his lordship considered that the documents amounted to a contract under which the defendants agreed with the Council to perform the condition. Though a contract sought to be enforced by a corporation must be under its seal (*Mayor, Aldermen and Citizens of Oxford* v. *Crow* [1893] 3 Ch. 535), this doctrine had no application where the contract had been part performed as in this case. The plaintiffs must have judgment.

COUNSEL: *Grant*, K.C., and *Danckwerts*; *Daynes*, K.C., and *Mahaffy*.

SOLICITORS: *Edwin Coe & Calder Woods*, for *R. W. Watson*, of Burnham-on-Sea; *Ernest Bevin & Son*.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

Gooding *v.* Benfleet Urban District Council.

Lord Hewart, C.J., Talbot and Charles, JJ. 23rd February.

RATING — HOUSEBOAT — MOORED TO RIVER BANK — EXCLUSIVE OCCUPATION OF MOORINGS AND GANGWAY—RATEABLE HEREDITAMENT.

This was an appeal by the Benfleet Urban District Council by way of case stated from a decision of Essex Quarter Sessions.

The respondent, Arthur Leonard Gooding, was the owner of a houseboat, the " Maud," moored in a creek of the River Thames at Benfleet, Essex. The appellants were the rating authority for the Urban District of Benfleet. On the 28th July, 1931, they made a proposal for the amendment of the valuation list for the district by the insertion in it of a hereditament described as " mooring attached to the land . . . " in respect of the respondent's houseboat, the gross value being inserted as £8 and the rateable value as £5. On the 22nd August, 1931, the respondent gave notice of objection to the proposal, but the Assessment Committee determined to amend the valuation list by the insertion of the hereditament in question. The respondent then appealed to Quarter Sessions. Before them it was proved that, for the three previous years the " Maud " had been continuously moored in Benfleet Creek to five posts driven (not by the respondent) about 18 inches into the bank of the creek, and also anchored by two anchors in the bed of the creek. Access to the houseboat was by means of a wooden gangway resting on the soil of the bank and affixed to eight posts driven by the respondent into the soil of the bank and the bed of the creek. The owners of the bank of the creek were the London Midland and Scottish Railway Company, which had let the bank on an annual tenancy to one William Ward, at a rent of £15 a year, and he had placed on the bank parallel to and close to its edge duckboards for the use of the occupiers of the " Maud " and other houseboats moored in the creek. For three years the respondent had paid to Ward £1 a year for the right to walk along the duckboards to the houseboat, to moor to the posts, and to have access to the houseboat. The Quarter Sessions were satisfied that the respondent had the exclusive use of both the moorings and the gangway under an annual licence from Ward, but they found that the only person rateable in respect of the moorings was Ward, and they therefore allowed the respondent's appeal. The urban district council now appealed.

LORD HEWART, C.J., said that the true inference from the facts of the case appeared to be that the respondent was in

exclusive occupation of the moorings and the gangway. Many cases had been cited, but the case decisive of the matter was *Cory* v. *Bristow* (2 App. Cas. 262; 25 W.R. 383), where it was held by the House of Lords that the appellants, who had received permission from the Thames Conservancy to lay down moorings in the River Thames to which to attach a derrick hulk to facilitate the unloading of coal, were liable to be rated as they were to be treated as being in occupation of a part of the soil and bed of the river. That case showed that Quarter Sessions were wrong in law.

TALBOT and CHARLES, JJ., agreed, and the appeal was allowed, no order being made as to costs.

COUNSEL: *Roland Burrows*, K.C., and *Arthur Capewell* for the appellants; *Frederick Levy* for the respondent.

SOLICITORS: *Dennes, Lamb & Drysdale*, Southend-on-Sea; *Sterns*.

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Court of Criminal Appeal.

Rex *v.* Disney.

Lord Hewart, C.J., Avory and Talbot, JJ. 13th February.

CRIMINAL LAW—COUNT ALLEGING OFFENCES IN THE ALTERNATIVE—BAD FOR DUPLICITY—CONVICTION QUASHED—NIGHT POACHING ACT, 1828 (9 Geo. 4, c. 69), s. 1.

This was the appeal against conviction by Albert Disney who was charged at Leicestershire Sessions on the 3rd January, 1933, on an indictment containing three counts. The first count charged an offence under s. 1 of the Night Poaching Act, 1828, and was in the following terms: "Albert Disney on the 13th day of December in the year 1932, in the County of Leicester, unlawfully took or destroyed game or rabbits, in land at Croxton Kerrial occupied by the Belvoir Estates Limited, or was in the said land by night with a gun net or other instrument for the purpose of unlawfully taking or destroying game or rabbits." The appellant was found guilty on the first count, and not guilty on the second and third counts, and was sentenced by the chairman to three years' penal servitude. The record was in the following form: "Verdict. Guilty to first count—Night Poaching." The appellant now appealed, and the main ground of appeal was that the count in the indictment on which the appellant was convicted was bad either for duplicity or uncertainty, in that it charged two offences in the alternative.

Lord HEWART, C.J., in giving the judgment of the court, said that the count alleged two offences in the alternative, and the verdict was entered on the indictment as "guilty to the first count." It was impossible to say of what the appellant had been convicted. The court thought, therefore, that the appeal ought to be allowed and the conviction quashed. It was very unfortunate that the precedent for this count appeared on p. 1392 of the 28th edition of "Archbold's Criminal Pleading." He was told by his brother Avory that the italics which were in the old editions had been omitted, but, at any rate, as it stood, the precedent was one of a count which included two different offences.

COUNSEL: *J. P. Stimson* for the appellant; *E. M. Ling-Mallison* for the Crown.

SOLICITORS: *The Registrar of the Court of Criminal Appeal; the Director of Public Prosecutions.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

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Parliamentary News.

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Austrian Loan Guarantee Bill.
Read Third Time. [8th March.

Barking Corporation Bill.
Read Second Time. [8th March.

Church of Scotland (Property and Endowments) Amendment Bill.
Read First Time. [2nd March.

Doncaster Area Drainage Bill.
Read First Time. [7th March.

Foreign Judgments (Reciprocal Enforcement) Bill.
Read Third Time. [7th March.

Housing (Financial Provisions) Bill.
Read First Time. [7th March.

Indian Pay (Temporary Abatements) Bill.
Read First Time. [8th March.

Ministry of Health Provisional Order (Buckingham and Oxford) Bill.
Reported without Amendment. [7th March.

Ministry of Health Provisional Order (Chester and Lancaster) Bill.
Read First Time. [7th March.

Ministry of Health Provisional Order (Eton Joint Hospital District) Bill.
Read First Time. [7th March.

Ministry of Health Provisional Order (Leek) Bill.
Reported without Amendment. [7th March.

Ministry of Health Provisional Order (Rugby Joint Hospital District) Bill.
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Oxford Corporation Bill.
Read Second Time. [8th March.

Pharmacy and Poisons Bill.
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Road Traffic (Compensation for Accidents) Bill.
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Agricultural Marketing Bill.
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Assurance Companies (Winding-Up) Bill.
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Blind Voters Bill.
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Summary Jurisdiction (Appeals) Bill.
Read Second Time. [3rd March.

Questions to Ministers.

CORONERS.

Mr. BRACKEN asked the Home Secretary whether, in view of the discontent aroused by proceedings in coroners' courts, he will appoint a Departmental Committee to review the powers and functions of coroners.

Sir J. GILMOUR: I am aware that from time to time the conduct of inquests by coroners has been the subject of criticism, but, as at present advised, I do not think it is necessary to appoint a Departmental Committee as suggested by my hon. Friend. [2nd March.

Rules and Orders.

THE LAW OF PROPERTY (RESTRICTIVE COVENANTS DISCHARGE AND MODIFICATION) RULES, 1933, DATED 17TH JANUARY, 1933.

[15 & 16 *Geo.* 5. *c.* 20. 9 & 10 *Geo.* 5. *c.* 57.]—In pursuance of section eighty-four of the Law of Property Act, 1925, the Reference Committee for England and Wales constituted under the Acquisition of Land (Assessment of Compensation) Act, 1919, hereby makes the following Rules:—

1. *Short title.*]—These Rules may be cited as the Law of Property (Restrictive Covenants Discharge and Modification) Rules, 1933, and shall come into operation on the 1st day of March, 1933.

2. *Interpretation.*]—(1)In these Rules, unless the context otherwise requires:—

The expression "the section" means section eighty-four of the Law of Property Act, 1925;

The expression "arbitrator" means official arbitrator;

The expression "restriction" means a restriction arising under a covenant or otherwise as to the user of any freehold land or of any leasehold land held for a term of more than seventy years of which at least fifty years have expired, or the building thereon.

[52 & 53 *Vict.* *c.* 63.]—(2) The Interpretation Act, 1889, applies for the purpose of the interpretation of these Rules, as it applies for the purpose of the interpretation of an Act of Parliament.

3. *Method of making applications.*]—(1) Where a person interested in any land affected by a restriction is desirous of making an application under the section, he shall send to the Reference Committee a request for the selection of an arbitrator accompanied by the application in duplicate.

(2) An application may be made by two or more persons jointly, whether the land in which they are interested is the same land or different parts of the land affected by the restriction.

(3) The application shall state the extent to which, or the manner in which, the restriction is sought to be discharged or modified, and the grounds on which such discharge or modification is applied for, and shall contain particulars with respect to the following matters so far as known to the applicant:—

(*a*) the nature of the restriction;

(*b*) the land affected by the restriction;

(*c*) the manner in which the restriction was imposed whether by covenant or otherwise, and the date of the imposition thereof;

(*d*) the consideration for which the restriction was imposed;

(*e*) the names and addresses of the persons entitled to the benefit of the restriction;

(*f*) the nature of the interests in virtue of which any such persons are entitled to the benefit of the restriction.

(4) The request for the selection of an arbitrator and the application shall be in the forms set out in the Schedule to these Rules, or in forms to the like effect; and the particulars set out in the application shall, if so required by the Reference Committee, be verified by a statutory declaration, and where such verification is required the application shall not be deemed a valid application unless the requirement is complied with.

4. *Selection of official arbitrator.*]—(1) The Reference Committee on receiving a request for the selection of an arbitrator and a valid application shall, as soon as may be, proceed to select from the panel an arbitrator to deal with the case.

(2) The Reference Committee shall, as soon as they have selected an arbitrator, send to him a copy of the application, and shall inform the applicant of the name and address of the person so selected.

5. *Determination of the notices to be given*].—The Arbitrator selected shall consider the application with a view to determining whether any and what notices are to be given, and whether by way of advertisement or otherwise, to persons who appear to be entitled to the benefit of the restriction; and may for this purpose require the applicant to furnish him with any documents or other information which he has in his power to furnish, and which the arbitrator may require for such purpose as aforesaid.

6. *Giving of notices and lodging of objections.*]—(1) The applicant shall, on being required so to do by the arbitrator, give such notices by way of advertisement or otherwise as the arbitrator may direct and shall send to the Reference Committee a certificate, in the form set out in the Schedule to these Rules or in a form to the like effect, that such directions have been complied with.

(2) The notices shall require persons claiming to be entitled to the benefit of the restriction who object to the discharge or modification of the restriction proposed by the application, or claim compensation for the discharge or modification thereof, to send to the arbitrator and to the applicant within such time, not being less than fourteen days from the giving of the notices, as may be specified in the notices, any objections that they may have to the application, and the grounds thereof, and if they claim compensation for the discharge or modification of the restriction, the amount of the compensation claimed.

(3) Objections and claims for compensation shall be in the form set out in the Schedule to these Rules, or in a form to the like effect.

7. *Fixing of time and place of hearing.*]—The arbitrator shall as soon as practicable after the expiration of the time for lodging objections and claims for compensation fix a time and place for the hearing of the application, and shall give notice thereof to the applicant and to every person who has duly lodged an objection or claim for compensation:

Provided that—

(*a*) if no objections or claims for compensation are received by an arbitrator within the time allowed for the purpose, he may make an order in the terms of the application without any formal hearing:

(*b*) the arbitrator may if, having regard to the interest of the applicant, it appears to him that the applicant is not a proper person to make an application, dismiss the application without a formal hearing.

8. *Power to direct service of additional notices.*]—If, in the course of the hearing, it appears to the arbitrator that any person to whom no notice was given otherwise than by way of advertisement is a person to whom specific notice of the application should be given, he may require the applicant to give notice to that person and adjourn the hearing for the purpose of allowing such person to make an objection or a claim for compensation.

9. *Reference of questions for determination by the court.*]—If, whether before or at the hearing, it appears to the arbitrator that a question arises—

(*a*) as to whether or not any land is affected by the restriction; or

(*b*) as to what, upon the true construction of any instrument purporting to impose the restriction, is the nature and extent of the restriction thereby imposed, or as to whether the same is enforceable, and, if so, by whom;

the arbitrator may require an application to be made to the court for the determination of the question in manner provided by subsection (2) of the section, and may adjourn the case pending the hearing of such question by the court.

10. *Enquiries of local authorities.*]—If, whether before or at the hearing, it appears to the arbitrator that it is expedient to make enquiries of any local authority within whose

jurisdiction the land affected by the restriction is situate, he may direct such enquiries to be made as he thinks fit and may adjourn the case until the reply of the local authority has been obtained.

11. *General provisions as to procedure.*]—Subject to the provisions of the section and of these Rules, the procedure before an arbitrator shall be such as, subject to any special directions of the Reference Committee, he may in his discretion think fit, and in particular the arbitrator may, subject to such directions as aforesaid, determine that in any case oral evidence shall be excluded.

12. *Power to select another official arbitrator.*]—The Reference Committee may in the case of the death or the incapacity of the arbitrator originally selected, or if it is shown to the Committee that it is expedient so to do in any other case, at any time before the arbitrator has made his order, revoke the reference of the application to the selected arbitrator and select another arbitrator for the purpose of determining the application.

13. *Provisions as to payment of prescribed fees.*]—(1) There shall be charged in respect of an application, and in respect of a Certificate under Rule 6 (1) of these Rules, and in respect of the hearing before an arbitrator, such fees as are prescribed by Fees Rules made by the Reference Committee with the consent of the Treasury, in pursuance of the powers conferred on them by subsection (4) of the section, and such fees shall be collected in manner directed thereby.

(2) Any application or certificate under these Rules which is not properly stamped in accordance with the foregoing provision shall be treated as invalid, and the order of the arbitrator shall not be issued by him unless and until it has been properly stamped in accordance with the said provision.

14. *Provisions as to notices.*]—Any notice or other document required or authorised to be sent to any person for the purpose of these Rules shall be deemed to have been duly sent if sent by post addressed to that person at his ordinary address, and the address of the Reference Committee for this purpose shall be—

THE SECRETARY TO THE REFERENCE COMMITTEE,
ROOM 121,
ROYAL COURTS OF JUSTICE,
STRAND, LONDON, W.C.2.

15. *Informalities not necessarily to invalidate proceedings.*]—Any failure on the part of any person to comply with the provisions of these Rules shall not render the proceedings or anything done in pursuance thereof invalid, unless the arbitrator so directs.

16. *Provisions as to orders.*]—(1) Where by the order a restriction is discharged in whole or in part or modified subject to the payment of any compensation awarded by the order, the order shall not so far as it affects such discharge or modification come into operation until the arbitrator by an endorsement on the order certifies that all the compensation has been paid or satisfied or discharged.

(2) The arbitrator may by his order direct that the compensation awarded shall be paid or satisfied or discharged within a specified time and that unless it is so paid or satisfied or discharged the order shall cease to have effect on the expiration of the time specified.

(3) The arbitrator may by his order direct that the compensation awarded in respect of any land shall be paid into court.

(4) If the arbitrator makes an order discharging in whole or in part or modifying a restriction the order shall be in the form set out in the Schedule to these Rules, or in a form to the like effect.

17. The Law of Property (Restrictive Covenants Discharge and Modification) Rules, 1925,(*) are hereby revoked except that they shall apply in the case of all valid applications for the selection of an arbitrator under the Act received by the Reference Committee prior to 1st March, 1933.

Hewart, C.J.
Hanworth, M.R.
C. Gerald Eve, P.S.I.
The Reference Committee for England and Wales under the Acquisition of Land (Assessment of Compensation) Act, 1919.

Dated the 17th January, 1933.

Schedule.

FORM OF REQUEST FOR SELECTION OF OFFICIAL ARBITRATOR.
Section 84 of the Law of Property Act, 1925.
Request for selection of Official Arbitrator.

To the Reference Committee,
121, Royal Courts of Justice, Strand, London, W.C.2.

I (We), being the applicant(s) in the accompanying application, hereby request the selection pursuant to the above section of an official arbitrator to hear and determine the accompanying application.

**Signed* .....

Date .....

FORM OF APPLICATION FOR DISCHARGE (WHOLE OR PARTIAL) OR MODIFICATION OF A RESTRICTION AS TO THE USER OF LAND OR THE BUILDING THEREON.
Section 84 of the Law of Property Act, 1925.
Application for discharge (or modification) of a restriction affecting land.

To the Official Arbitrator selected by the Reference Committee.

I, A.B. of....., being entitled to (*here insert nature of interest*) in (*here describe land in which the applicant is interested*)† which land is subject to a restriction of which particulars are set forth below hereby apply that the said restriction may be discharged wholly [*or* to the extent of (*here state extent of discharge applied for*)] [*or* may be modified by (*here state nature of modification applied for*)].

And I (We) make this application on the ground that (*here state the ground of the application, whether it falls within paragraph (a) or paragraph (b) or paragraph (c) of sub-section* (1) *of the above section*).

The following are the required particulars respecting the restriction :—

(*a*) The restriction (*here state nature of restriction*).

(*b*) The land affected or alleged to be affected by the restriction is (*here describe the land affected*) being freehold land (*or* being leasehold land held for a term of more than seventy years of which fifty years have expired).

(*c*) The restriction was imposed (*here state the manner, whether by covenant or otherwise, in which the restriction was imposed, and the date thereof*).

(*d*) The consideration for the restriction was [*here state the nature and amount of consideration (if any)*].

(*e*) The persons entitled to the benefit of the restriction are (*here state the names and addresses of such persons and the nature of the interests by virtue of which they are entitled to the benefit of the restriction*).

**Signed*.....

Date.....

FORM OF OBJECTION TO APPLICATION.
Section 84 of the Law of Property Act, 1925.

In the matter of an application made by.....
under the above section.

To.....*Official Arbitrator.*

I, being entitled to the benefit of the restriction to which the above application relates as being entitled to (*here state nature of interest*) in (*here describe land in which objector is interested*) hereby object to the said application being acceded to on the ground that (*here state shortly grounds of objection*) and in the event of the said restriction being discharged (*or* modified) I claim that compensation should be paid to the amount of £....., as the amount of the loss I and my successors in title will suffer thereby (*or* of the depreciation in the value of the said land occasioned thereby).

‡*Signed*.....

Date.....

FORM OF CERTIFICATE OF COMPLIANCE WITH DIRECTIONS OF OFFICIAL ARBITRATOR.
Section 84 of the Law of Property Act, 1925.
Application No.....

To the Reference Committee,
121, Royal Courts of Justice, Strand, London, W.C.2.

I (We), being the applicant(s) herein hereby certify pursuant to Rule 6 (1) of the Law of Property (Restrictive Covenants Discharge and Modification) Rules, 1933, that the notices of this application determined pursuant to Rule 5 of the said Rules have been duly given in form and manner directed by the Official Arbitrator selected.

**Signed* .....

Date .....

FORM OF ORDER.
Section 84 of the Law of Property Act, 1925.

In the matter of the application made by.....*under the above Section.*

I, being the Official Arbitrator selected by the Reference Committee to hear and determine the above application, hereby order that the restriction (*here state nature of restriction*) affecting (*here describe land affected*) being freehold land (*or* being leasehold land held for a term of more than seventy

(*) S.R. & O. 1925 (No. 1182) p. 873.

*If the application is signed by an agent, add "by.....his (or their) Agent."

†If there are more applicants than one the foregoing words should be repeated as respects each applicant.

‡If the objection is signed by an agent, add "by.....his agent."

years of which fifty years have expired) is hereby wholly discharged [*or* is hereby discharged to the extent of (*here state extent to which the restriction is discharged*)] [*or* is hereby modified (*here state nature of modification*)] subject to the payment on or before the.....day of.....to the person(s) hereinafter mentioned (*or* into Court) of the amount(s) hereby awarded to him (or them respectively), that is to say to.....£.....to.....£..... unless the amount(s) above awarded is (are) paid or satisfied or discharged on or before the said day of.....this Order shall cease to have effect from that date.

Signed .....
Date..... *Official Arbitrator.*

CERTIFICATE OF PAYMENT OR SATISFACTION OR DISCHARGE OF COMPENSATION.

I hereby certify that all compensation payable under this Order has been paid or satisfied or discharged.

Signed .....
Official Arbitrator.

Date.....

THE LAW OF PROPERTY (RESTRICTIVE COVENANTS DISCHARGE AND MODIFICATION) FEES RULES, 1933, DATED FEBRUARY 3, 1933, MADE BY THE REFERENCE COMMITTEE WITH THE CONSENT OF THE TREASURY UNDER SECTION 84 (4) OF THE LAW OF PROPERTY ACT, 1925 (15 & 16 GEO. 5. C. 20).

In pursuance of Subsection (4) of section eighty-four of the Law of Property Act, 1925, the Reference Committee for England and Wales, under the Acquisition of Land (Assessment of Compensation) Act, 1919,* with the consent of the Lords Commissioners of His Majesty's Treasury, hereby make the following rules :—

1.—(1) These rules may be cited as the Law of Property (Restrictive Covenants Discharge and Modification) Fees Rules, 1933.

(2) In these rules the expression "the Section" means section eighty-four of the Law of Property Act, 1925.

2. On an application sent with a request for the selection of an arbitrator in accordance with paragraph 3 of the Law of Property (Restrictive Covenants Discharge and Modification) Rules, 1933.† there shall be paid the fee of £5.

3. On the certificate sent in accordance with paragraph 6 (1) of the aforesaid Rules† there shall be paid the fee of £5 5s. 0d.

4. The fees under the foregoing provisions shall be paid by means of stamps impressed on the application and the certificate respectively.‡

5. On an Order made by an Official Arbitrator under the section there shall be paid—

(*a*) if no compensation is awarded a fee of £10 10s. 0d. and where the hearing before the arbitrator occupies more than one day, a further fee of £10 10s. 0d. for each day or part of a day after the first day.

(*b*) where compensation is awarded, a fee calculated by reference to the amount of compensation awarded in accordance with the following scale :—

Amount of Compensation Awarded.	Amount of Fee.
Not exceeding £500 ..	£10 10s. 0d.
Exceeding £500 but not exceeding £1,000.	£10 10s. 0d. with an addition of £1 1s. 0d. in respect of every £50 or part of £50 by which the amount awarded exceeds £500.
Exceeding £1,000 but not exceeding £5,000.	£21 with an addition of £1 1s. 0d. in respect of every £100 or part of £100 by which the amount awarded exceeds £1,000.
Exceeding £5,000	£63 with an addition of £1 1s. 0d. in respect of every £200 or part of £200 by which the amount awarded exceeds £5,000 but not exceeding in any case £262 10s. 0d.

In addition to the fee payable under the scale aforesaid there shall, where the hearing before the arbitrator in respect of any claim or matter referred to him occupies more than one day, be paid for each day or part of a day after the first day a further fee of £10 10s. 0d.

6. For the purpose of the foregoing provisions :

Any time spent by the arbitrator in viewing any land which is the subject matter of the proceedings before him shall be treated as part of the hearing. A day shall be taken to be a working period of five hours.

7. These Rules shall come into operation on the 1st day of March, 1933.

The Law of Property Restrictive Covenants (Discharge and Modification) Fees Rules, 1925,* are hereby revoked except that they shall apply in the case of all valid applications for the selection of an arbitrator under the Act received by the Reference Committee prior to 1st March, 1933.

Dated the 3rd day of February, 1933.

Hewart, C.J.
Hanworth, M.R.
C. Gerald Ere, P.S.I.
The Reference Committee for England and Wales under the Acquisition of Land (Assessment of Compensation) Act, 1919.

Walter J. Womersley.
Austin Hudson.
Lords Commissioners of His Majesty's Treasury.

*9-10 G. 5. c. 57.
†S.R. & O. 1933, No. 51.
‡The appropriate stamp must be impressed at the Inland Revenue Stamp Office, Room 6, Royal Courts of Justice, Strand, London, W.C.2.
Applications and Certificates transmitted for stamping through the post must be accompanied by a Money Order or cheque drawn to the order of the Commissioners of Inland Revenue for the amount of the fee payable.
When stamped, the document transmitted will be delivered to the Secretary to the Reference Committee for acknowledgment and attention unless in any case the sender otherwise directs.
All applications transmitted through the post must have annexed the prescribed form of Request for selection of Official Arbitrator together with a duplicate of the application.

*S.R. & O. 1925 (No. 1272) p. 879.

Societies.

The London School of Economics.

THE INTERPRETATION OF THE WORKMEN'S COMPENSATION ACTS.

Dr. W. A. ROBSON lectured on this subject to the London School of Economics on the 28th February. He said that these Acts had excited more intense and persistent litigation than any other statute, largely because of the insurance system which had developed. The cause of the whole trouble was the wording of s. 1 of the Act of 1897, which allowed a workman to claim compensation for personal injury caused by accident arising out of and in the course of the employment. In spite of the repetition by countless judges of the opinion that the Act ought to be construed in a popular and straightforward manner, these simple words had given rise to thousands of cases. Lord Sankey especially, in *Shotts Iron Co.* v. *Fordyce* [1930] A.C. 508, had protested against the construction of s. 1, through a vista of decisions on particular facts. The problem was obscured by the mass of case law in which it was submerged.

"Accident" had been at first conceived as something fortuitous and unexpected, and had excluded injury suffered while doing the ordinary work in the ordinary way. A difficulty had arisen when the injury was caused by a human agent : in *Nisbet* v. *Rayne & Burn* [1910] 2 K.B. 689, a cashier was robbed and murdered, and this was held to be an accident, as from his point of view the act was not premeditated. Similarly, in *Trinn and Joint District School* v. *Kelly* [1914] A.C. 667, where a master in an industrial school was murdered by two pupils, Lord Haldane ruled that accident included any injury not expected or designed by the workman himself. In spite of vigorous dissent by Lord Dunedin, the decision had been adopted and had greatly widened the scope of the Acts. It had not, however, solved the problem of whether or not accident had to include an element of suddenness. In *Ismay, Imrie* v. *Williamson* [1908] A.C. 437, a stoker in a weak and emaciated condition had been killed by a "sudden and unexpected" heat-stroke, and the death had been held accidental. On the other hand, in *Piper* v. *Manchester Liners* [1916] C.A., 2 K.B. 691, a stoker aboard ship in the Red Sea had died of heat-stroke after he had complained for four or five days, but had gone on working to help his mates ; the injury was held not to be by accident.

The ground of decision had later shifted from disputing the element of suddenness in accident to disputing whether the injury had arisen out of the employment. In *Mitchinson* v. *Day Brothers* [1913] 1 K.B. 603, a carter had been murdered by a drunken man ; the injury was held not to be incidental to the employment of a carter even though he had been trying to prevent interference with his master's property. By contrast, in *Parker* v. *Federal Steam Navigation Co.* (1926) 134 L.T. 136, a stoker had been murdered by one of his mates, a negro, while at work ; held that the accident had arisen out

of the employment, which had brought the man into contact with a "savage, undisciplined African." In *Lee* v. *Breckman* (1928), 44 T.L.R. 235, an upholsterer's porter was assaulted by a carman and lost an eye; the Court of Appeal dismissed his claim, as he had failed to show that his employment subjected him in a special degree to risk of assault.

GENERAL PERILS.

Even greater difficulty had been found in deciding to what extent injuries resulting from general perils could be said to arise out of employment. A man who had been struck by lightning clearing out gulleys had been excluded; a debt collector who had been killed by a German aircraft bomb in the street while at work had been held not to come within the Act, and the same decision had been reached in *Allcock* v. *Rogers*, T.L.R. 324, 11 B.W.C.C. 149, where a potman cleaning a brass plate outside a public-house had been killed by a bomb. The court had recognised in this case the ruling in *Dennis* v. *White & Co.*, 38 T.L.R. 434, that if a workman were required by his duty to face street risks, he was protected if an accident arose from them. In the latter case Finlay, L.C., speaking of injury by lightning, had said:

> "It is very material to enquire whether the work involves special exposure to the danger of being struck, as in the case of exposure on a steeple or elevated scaffolding."

In the lecturer's view, this judgment exhibited an extraordinary confusion of thought, for Lord Finlay had already expressly pointed out that the extent to which the workman had to face the risks of the streets was immaterial—that any exposure was sufficient (*per* Buckley, L.J., in *Pierce's Case*, 1911, 1 K.B. 997). The House of Lords had confused the position in other cases by making the character and quality of the risk depend upon the frequency with which it occurred. In *Allcock* v. *Rogers*, *supra*, the House of Lords had found no evidence of any special danger attaching to the spot where the man worked, and had been unable to say that the risk of being struck by a bomb was a street risk, in spite of evidence that practically all injuries received by the civil population from enemy aircraft had occurred in the street. The lecturer asked whether any better evidence of the danger of a place could be provided than the fact that a man had been killed there.

General perils had been excluded from the Acts until *Lawrence* v. *George Matthews*, 44 T.L.R. 812, when a commercial traveller riding a motor-cycle had been killed by a tree which had fallen on him. The Court of Appeal had had to decide whether a general non-human peril could so specially affect a particular occupation as to make an accident arise out of the employment. Russell, L.J., after a review of all the cases, had held that if an accident resulted from a risk which was a necessary incident to the work, it arose out of the employment, whether other members of the public faced the same risk or not; if a workman were injured from a risk to which everyone was subject but he more than others, he came within the Act; if the risk causing the accident was not a necessary incident in the work, the employer was not liable; but if the employment brought the workman to a particular spot which turned out to be a dangerous place sufficient causal relation existed to establish liability. An absurd distinction had thus arisen between general perils of the streets and other general perils. The general doctrine of the dangerous place was one of the most profoundly unsatisfactory and ill-thought out parts of workmen's compensation law.

The question of whether accident arose out of or in the course of the employment had been well defined by Lord Sumner in the question: "Was it part of the injured person's employment to hazard, to suffer, or to do that which caused his injury?" To ask whether the cause of the accident was within the sphere of the employment, or one of the ordinary risks of the employment, or reasonably incidental to the employment; or, conversely, was an added peril and outside the sphere of the employment, were all different ways of asking whether it was part of his employment that the workman should have acted as he was acting, or have been in the position in which he was. That simple and straightforward dictum would have enabled the courts to avoid much subsequent difficulty and hair-splitting.

Dr. Robson also dealt with the relation of illness to injury, and with the provision of suitable employment.

The Medico-Legal Society.

THE HUMAN BLOOD GROUPS.

Lord RIDDELL, the President, took the chair at a meeting of this society on the 23rd February, and Dr. S. C. DYKE delivered a lecture on the human blood groups. After describing how the human race was divided into four unequal groups according to the presence or absence in the blood of two specific inheritable characters, and how this discovery had been forgotten until the war, he showed how the necessities of transfusion had made it necessary to perfect the technique of ascertaining the group to which an individual belonged in order to avoid doing serious harm to patients by injecting incompatible blood into their veins. The work of Hirszfeld and Hirszfeld towards the end of the war in Salonica, where the Allied armies had presented a conglomeration of human races unique in the history of the world, had shown that the proportion in which the groups were distributed in a given population constituted a racial character by which seven large races of mankind could be distinguished.

The medico-legal application of this knowledge, he explained, was twofold: in the identification of blood stains and in the determination of paternity. By modern biochemical methods it was possible to determine the group of a minute quantity of dried blood and even of an old bloodstain. Moreover, a man's group-specific characters were contained not only in his blood but also in most of his tissues and secretions, so that to determine his group it was not necessary to take a sample of his blood. It was, however, absolutely necessary for evidential purposes to use undoubted A and B sera of high titre for matching the test samples.

Owing to the fact that the characters determining the blood groups were hereditary, it was, he continued, possible to declare in certain cases, when paternity was alleged, that a certain man could not possibly be the father of a certain child. Besides the four classical groups, there existed two characters, also hereditary, which had been called M and N. These could not be detected in the blood itself, but only by the changes they excited in the blood of a rabbit, into the ear of which a small quantity of the human blood was injected. The determination of these characters, in combination with that of the four classical groups, marked a considerable step towards a determination of individual blood distinctions. Another character, which had been called P, was still under investigation.

A short discussion followed.

Institute for the Scientific Treatment of Delinquency.

PUBLICITY AND CRIME.

Dr. PRYNS HOPKINS took the chair at a meeting of this Institute, held at University College, on 3rd March, and Mr. KINGSLEY MARTIN, editor of the "New Statesman," delivered a lecture on the relation of the press to crime. He drew attention to the enormous popularity of crime as a subject of news. Ten million people, he said, spent a large part of Sunday reading highly sensational crime news in the Sunday papers, and as many more read it eagerly during the week. The basic instincts of humanity demanded adventure; the detection and punishment of crime corresponded to hunting and human sacrifice. Human beings instinctively demanded a justice that wiped out so much crime by so much suffering. Crime as it was treated in the papers, with all the disgusting details discreetly revealed, was immensely attractive and constituted a large part of the education of the people, Its effects on morals and justice were deplorable. A man who committed a spectacular murder could be sure of getting a newspaper to pay for expensive counsel in exchange for permission to publish his life story. Cases like those of Wallace and Rouse showed how juries might be prejudiced by newspaper comment on the private life of an accused person between the preliminary hearing and the trial. Each sensational crime, moreover, gave rise to a number of imitative crimes. The House of Lords, in debating the matter, had considered the suggestion that every kind of publicity should be forbidden in murder cases. This, in the opinion of Mr. Martin, would be a mistake. It was important not only that justice should be done, but also that the public should know that it had been done. Magistrates already had discretion to exclude the Press from the hearing of serious charges, and there was no reason why the preliminary proceedings should be reported at all. The Lord Chief Justice had expressed strong condemnation of the practice of supplying from Scotland Yard details of an accused man's past.

As a result of sensational reporting, the public acquired a totally distorted view of crime. Most persons, for instance, thought that the average murderer was hanged, whereas only a small percentage were. It was a popular error to think that crimes of violence against the person were increasing: actually they were diminishing. The fallacy was partly due to the official classification, which included under the head of violent crimes house-breaking and shop-breaking, which had, in fact, increased. To illustrate how grossly the motor highwayman scare had been exaggerated, Mr. Martin quoted the statement of the Automobile Association that, with all its widespread

system of intelligence, it had not yet had reported to it a single genuine case of a motor hold-up on the road.

The dramatic and sentimental attitude of the Press and public towards crime immensely handicapped its scientific study. In order to understand crime it was necessary to take an impartial and steady view, quite detached from emotion; to consider the causes of crime and the best and least painful way of protecting society against a particular anti-social action. This was precisely the opposite of the view taken by the Press. The sharp antagonism between the two led to a very dangerous situation. The future of crime depended on which attitude prevailed, and the balance was heavily loaded against the scientific one.

The Law Society.

PRELIMINARY EXAMINATION.

The following candidates (whose names are in alphabetical order) were successful at the Preliminary Examination held on the 15th and 16th February, 1933:—

Colin Oliver Adams, Evelyn Lilian Adams, Levon Berdj Agazarian, Douglas Edward Thompson Argent, Lilian Mary Ashworth, Paul Abbott Baillon, Aubrey Baker, John Grahame Barker, Edwin Fred Barrett, Kenneth St. John Beaumont, Clifford Moss Beck, Thomas Colston Blagg, William Bolton, Thomas George Bond, Claude Alfred Bradford, Cedric Humphrey Briggs, John Paterson Brodie, Thomas Barton Brown, William Alexander Coulson Browne, Thomas Harley Royston Campling, John Chambres, Lionel Francis Church, Ernest Hanby Clark, George John Clarke, Robert Anthony Cleaver, William Henry Cook, Kenneth Henry Crofton, Robert William Cubbidge, John Gregson Cumberlege, Philip Meyer Davis, David George Dawkins, Leonard Hindle Dodd, Harry Duxbury, John Eastwood, Evan Glyn Evans, Peter Leigh Fell, Oswald Richard Giles, John William Glanfield, Aubrey Percy Goodwin, Derek Saxon Harrold, Wilfrid Chester Haworth, Roland George Hugh Higgs, Norman Davis Hodgson, John Grosvenor Horton, Frank Douglas Howarth, Basil Sydney Edward Huddle, Thomas Ewing Hulbert, Harold Robert Hutton, Alan Hyslop, Eric Irvine, Russell Willan Jackson, John Frederick Johnson, Wilfred Kenelm Kilner, Arthur Leslie King, Keith Edward Kissack, Alfred Randolph Knagg, Horace William Langdale, Derek Godfrey Leach, Arnold Robinson Lewis, William Edmund Littlewood, John Paterson Lockett, Clifford Dudley Lowings, Cecil Arthur Manners, John Murray Melville, Frederick Albert Millichip, Kenneth Irwin Mitchell, Louis James Monahan, Alfred Dennis Murfin, Laurence John Oderbolz, John Lachlan Sutherland Oliver, John Ernest Peeling, William Humphrey Pickstone, John Edward Powell, Alfred John Vincent Ramage, George Arthur Robert Richardson, John William Richardson, Francis Henry Ridd, Raymond Leonard Ringrose, Peter Allan Rippon, Robert Humphreys Roberts, William Edward Denis Rollinson, John Jessop Ryland, Peter Scott-Tucker, Gordon Patrick Edwin Sealy, Louis Shaffner, John Atlay Shaftoe, Edmund Morland Shewell, Aubrey Sidney-Wilmot, Audrey Joyce Simmonds, Reginald James Smith, John Stoker, Cyril James Shirley Stokes, Harry Chamberlain Sutton, James Denis Tattersall, Derrick Cooper Taylor, Thomas Thomas, Joseph Leslie Thorpe, Kenneth Leslie Titmuss, Agnes Margaret Wain, Richard Walters, Edward Rayner Dreyer Warburg, Henry Roughley Warburton, David Herbert Wardlaw, Sidney Harold Warnes, Clement Reginald Weaver, Francis Robert Weaver, Arthur Reynolds Killingworth White, Birkett Bell Williams, William Eric Williams, George Henry Womersley, Henry Derek Wood, Oliver Heighes Woodforde, Stanley Percy Worker, Rex Wyeth.

No. of Candidates, 220. Passed, 114.

The Hardwicke Society.

An ordinary meeting of the Society was held in the Middle Temple Common Room on Friday, 3rd March. The President, Mr. Vyvyan Adams, M.P., took the chair at 8.20 p.m. In public business, Mr. D. Lyttleton moved: "That this house considers war is no longer inevitable." Mr. G. Beaumont opposed. There spoke to the motion Mr. Stewart, Mr. Boyd-Carpenter, Mr. Roskill, Mr. Stride (Hon. Secretary), Mr. Barman, Mr. Newman Hall (Hon. Treasurer), Mr. Yahuda, Mr. Alexander, Mr. Wigan, Mr. MacColl, Mr. Bell and Prince Lieven, and the hon. proposer in reply. On a division the motion was lost by two votes.

Law Students' Debating Society.

At a meeting of the Society, held at The Law Society's Hall, on Tuesday, 7th March, 1933 (Chairman, Miss H. M. Cross), the subject for debate was: "That the case of *Hall* v. *Brooklands Auto Racing Club* [1933] 1 K.B. 205, was wrongly decided.'i Mr. R. Langley Mitchell opened in the affirmative. Mr. L. J. Frost opened in the negative. Mr. G. R. Hardy seconded in the affirmative. Mr. J. A. Dowding seconded in the negative. The following members also spoke: Messrs. E. M. Woolf, R. N. M. King, M. R. Hoare (Visitor) W. M. Pleadwell, P. W. Iliff, W. L. F. Archer. The opener having replied, and the Chairman having summed up, the motion was lost by six votes. There were twenty-one members and two visitors present.

Solicitors' Managing Clerks' Association.

ANNUAL GENERAL MEETING.

This Association held its annual general meeting in the Court Room of The Law Society, on 16th February, with Mr. R. W. Everard, the retiring President, in the chair. Mr. Everard outlined the work of the Association and paid a warm tribute to the large and increasing amount of work performed by the voluntary officers. He welcomed Messrs. Blackburn, Parsons and Smith to the Council. On retiring, he was unanimously elected a vice-president.

The annual report of the association shows that its work has been more active than ever. Seven lectures were delivered on various subjects by members of the Bar specialising in them: one of these, which was of especial value, dealt with the New Procedure rules immediately on their introduction. It was delivered by Mr. F. W. Beney, with Mr. Justice Swift, supported by Mr. Justice Macnaghten, in the chair. The hall was crowded. The classes for students and junior clerks were better attended than in years past, and the library received many useful additions. Some 350 members, guests and friends attended the Festival Dinner, which was very successful. The summer outing was held at Hindhead as a change from several outings on the river. A party from the Bournemouth branch joined the London members at tea at the Huts Hotel, and the meeting was a most cordial one. A successful smoker was held at the Broad Street Station Restaurant in January. The Bournemouth branch is one of the greatest achievements of the Association in recent years. Its membership is increasing: it has held some good lectures and has contributed the text of these, together with other useful matter, to *The Gazette*.

University of London Law Society.

ANNUAL DINNER.

The Annual Dinner of the University of London Law Society was held at Kettner's Restaurant on Wednesday, 22nd February. Among those present were: The President, James C. Hales, Esq., The Rt. Hon. Lord Justice Slesser, The Rt. Hon. Sir Dunbar Plunket Barton, K.C., Sir Ernest Pooley, M.A., LL.B., F. P. Schiller, Esq., K.C., The Dean of the Faculty of Laws, Professor H. H. Smith, M.A., The Hon. Secretary, Miss V. A. Braune, The Hon. Treasurer, L. L. Gower, Esq., Lady Melville, Sir Maurice Amos, T. J. F. Hobley. Esq. (a past President), Professor Hughes Parry, Professor Jolowicz, Llewellyn Davies, Esq., Jennings, Esq., M. Gilbert, Esq. A letter of regret for absence through parliamentary duties was read from Sir Ernest Graham Little, M.P.

Lord Justice SLESSER, replying to the toast "The Guests," said that there was a function cast on lawyers to-day as never existed in the past. In this country people had been accustomed to assume that the methods of law, which had been handed down through the ages were the best protection for the State, and the individual. Those views were now challenged from every quarter, and they would find that more and more those principles of common law and equity, which had been assumed hitherto as a matter of course, would be challenged, questioned, and denied. They had a great obligation, therefore, to maintain the principles of the law.

Speaking of legal education, he emphasised the importance of co-operation between the academic and vocational sides of the study of the law.

Mr. SCHILLER, replying to the toast of "The Legal Profession," said that those who would succeed at the bar must realise that it was a profession which demanded from them their life energy to the exclusion of everything else. It was a great profession. They might have many bitter experiences in it, which would form their character for the high duties they would have to undertake. They would suffer perhaps many disappointments by arguing with judges, who sometimes would not agree with them. Let them take comfort, however, in the words of a great judge, who said: "Looking back on a long life, there are many cases which I lost but ought to have won, and many cases which I won but ought to have lost, so on the whole justice was done." (Laughter.)

He said, speaking seriously, that as members of the legal profession they had a more important position than the public realised. The legal profession was one of the pillars of the

liberty of the people. They must be worthy of a great tradition. If they had a quarrel with a judge, they must not fear, but take it up boldly in the interests of their clients, and they would find that, after all, our judges were a human and generous body of men.

On Tuesday, 7th March, the University of London Law Society held a moot (criminal appeal) at Gower-street. Mr. Justice Humphreys presided. Counsel for appellants: Messrs. Fink and Watson; for respondents: Messrs. Furtado and Muscal. Mr. J. C. Hales (President of the Society) proposed a hearty vote of thanks to Mr. Justice Humphreys.

Legal Notes and News.

Honours and Appointments.

The King has been pleased, on the recommendation of the Secretary of State for Scotland, to appoint Mr. THOMAS BRENNAN to be one of the Macers of the Court of Justiciary and of the Court of Session.

Mr. BOWKER, Legal Secretary to the Law Officers of the Crown, has been appointed Remembrancer of the City of London. He was called to the Bar by the Middle Temple in 1922.

Mr. WILLIAM M. PATTERSON, solicitor, of South Shields, has been appointed Coroner for the East Chester Ward of Durham County. Mr. Patterson was admitted a solicitor in 1922.

Mr. JOHN TWINN, solicitor, Assistant Town Clerk of Ipswich, has been appointed Clerk of the Romford Urban District Council in succession to Mr. Charles T. King. Mr. Twinn was admitted a solicitor in 1928.

Professional Announcements.

(2s. per line.)

THE SOLICITORS' MORTGAGE SOCIETY, LTD. (formed by Solicitors for Solicitors), invites particulars of FUNDS or SECURITIES. Apply, The Secretary, 20, Buckingham-street, Strand, W.C.2. Telephone No. Temple Bar 1777.

Wills and Bequests.

Mr. Arthur Ernest Burton, solicitor, of Kensington, left £15,441, with net personalty £12,029.

Mr. Roderick Hamilton Purves, solicitor, of Great James-street, W.C., and of Felden, Boxmoor, left £17,152, with net personalty £11,712.

AUCTIONEERS' PRELIMINARY EXAMINATION.

The Auctioneers' and Estate Agents' Institute of the United Kingdom announce that 332 candidates sat for the Preliminary Examination and 235 were successful. Mr. V. W. G. Barrell, of Enfield, was placed first in order of merit, thereby gaining the institute prize of five guineas in the form of text-books for the Professional Examinations.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

DATE.	EMERGENCY ROTA.	APPEAL COURT No. 1.	GROUP I. MR. JUSTICE EVE.	GROUP I. MR. JUSTICE MAUGHAM.
			Witness. Part II.	Witness. Part I.
M'nd'y Mar. 13	Mr. Blaker	Mr. Andrews	Mr. Andrews	Mr.*More
Tuesday .. 14	More	Jones	*More	*Ritchie
Wednesday 15	Hicks Beach	Ritchie	Ritchie	*Andrews
Thursday . 16	Andrews	Blaker	*Andrews	More
Friday 17	Jones	More	More	*Ritchie
Saturday .. 18	Ritchie	Hicks Beach	Ritchie	Andrews

	GROUP I. MR. JUSTICE BENNETT. Non-Witness.	MR. JUSTICE CLAUSON. Witness. Part I.	GROUP II. MR. JUSTICE LUXMOORE. Non-Witness.	MR. JUSTICE FARWELL. Witness. Part II.
M'nd'y Mar. 13	Mr. Ritchie	Mr.*Jones	Mr. Hicks Beach	Mr.*Blaker
Tuesday .. 14	Andrews	*Hicks Beach	Blaker	Jones
Wednesday 15	More	*Blaker	Jones	*Hicks Beach
Thursday . 16	Ritchie	*Jones	Hicks Beach	Blaker
Friday 17	Andrews	Hicks Beach	Blaker	*Jones
Saturday .. 18	More	Blaker	Jones	Hicks Beach

* The Registrar will be in Chambers on these days, and also on the days when the Court is not sitting.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement Thursday, 23rd March, 1933.

	Div. Months.	Middle Price 8 Mar. 1933.	Flat Interest Yield. £ s. d.	†Approximate Yield with redemption £ s. d.
ENGLISH GOVERNMENT SECURITIES				
Consols 4% 1957 or after	FA	107½	3 14 5	3 10 7
Consols 2½%	JAJO	73xd	3 8 6	—
War Loan 3½% 1952 or after	JD	99½	3 10 6	—
Funding 4% Loan 1960-90	MN	110⅛	3 12 5	3 8 0
Victory 4% Loan (Available for Estate Duty at par) Av. life 29 years	MS	107½	3 14 5	3 11 7
Conversion 5% Loan 1944-64	MN	117	4 5 6	3 3 0
Conversion 4½% Loan 1940-44	JJ	110½	4 1 5	2 18 4
Conversion 3½% Loan 1961 or after	AO	98	3 11 5	—
Conversion 3% Loan 1948-53	MS	97	3 1 10	3 4 1
Local Loans 3% Stock 1912 or after	JAJO	85½xd	3 10 2	—
Bank Stock	AO	336½	3 11 4	—
Guaranteed 2¾% Stock (Irish Land Act) 1933 or after	JJ	76⅛	3 11 11	—
India 4½% 1950-55	MN	109½	4 2 2	3 14 8
India 3½% 1931 or after	JAJO	87xd	4 0 6	—
India 3% 1948 or after	JAJO	75xd	4 0 0	—
Sudan 4½% 1939-73	FA	110	4 1 10	2 13 6
Sudan 4% 1974 Red. in part after 1950	MN	108	3 14 1	3 8 0
Transvaal Government 3% Guaranteed 1923-53 Average life 12 years	MN	100	3 0 0	3 0 0
COLONIAL SECURITIES				
*Australia (Commonw'th) 5% 1945-75	JJ	106	4 14 4	4 7 0
*Canada 3½% 1930-50	JJ	100	3 10 0	3 10 0
*Cape of Good Hope 3½% 1929-49	JJ	100	3 10 0	3 10 0
Natal 3% 1929-49	JJ	95	3 3 2	3 8 2
New South Wales 3½% 1930-50	JJ	94	3 14 6	3 19 10
*New South Wales 5% 1945-65	JD	106	4 14 4	4 7 9
New Zealand 4½% 1948-58	MS	108	4 3 4	3 15 10
*New Zealand 5% 1946	JJ	110	4 10 11	4 0 0
Nigeria 5% 1950-60	FA	112	4 9 3	4 0 2
*Queensland 4% 1940-50	AO	100xd	4 0 0	4 0 0
*South Africa 5% 1945-75	JJ	111	4 10 1	3 16 9
*South Australia 5% 1945-75	JJ	106	4 14 4	4 7 0
*Tasmania 3½% 1920-40	JJ	99	3 10 8	3 13 4
Victoria 3½% 1929-49	AO	95xd	3 13 8	3 18 1
*W. Australia 4% 1942-62	JJ	100	4 0 0	4 0 0
CORPORATION STOCKS				
Birmingham 3% 1947 or after	JJ	85	3 10 7	—
Birmingham 4½% 1948-68	AO	112xd	4 0 4	3 10 2
*Cardiff 5% 1945-65	MS	110	4 10 11	3 18 9
Croydon 3% 1940-60	AO	92xd	3 5 3	3 9 3
*Hastings 5% 1947-67	AO	110xd	4 10 11	4 1 0
Hull 3½% 1925-55	FA	98	3 11 5	3 12 8
Liverpool 3½% Redeemable by agreement with holders or by purchase	JAJO	97½xd	3 11 10	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	72	3 9 5	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	85	3 10 7	—
Manchester 3% 1941 or after	FA	85	3 10 7	—
Metropolitan Consd. 2½% 1920-49	MJSD	91	2 14 11	3 4 7
Metropolitan Water Board 3% "A" 1963-2003	AO	87xd	3 9 0	3 10 0
Do. do. 3% "B" 1934-2003	MS	88½	3 7 10	3 8 9
Do. do. 3% "E" 1953-73	JJ	92	3 5 3	3 7 5
*Middlesex C.C. 3½% 1927-47	FA	101	3 9 4	—
Do. do. 4½% 1950-70	MN	112	4 0 4	3 11 7
Nottingham 3% Irredeemable	MN	85	3 10 7	—
*Stockton 5% 1946-66	JJ	111⅛	4 9 8	3 17 2
ENGLISH RAILWAY PRIOR CHARGES				
Gt. Western Rly. 4% Debenture	JJ	101⅛	3 18 10	—
Gt. Western Rly. 5% Rent Charge	FA	114½	4 7 4	—
Gt. Western Rly. 5% Preference	MA	73½xd	6 16 0	—
‡L. & N.E. Rly. 4% Debenture	JJ	81½	4 18 2	—
‡L. & N.E. Rly. 4% 1st Guaranteed	FA	61½	6 10 1	—
London Electric 4% Debenture	JJ	103⅜	3 17 4	—
‡L. Mid. & Scot. Rly. 4% Debenture	JJ	90⅛	4 8 5	—
‡L. Mid. & Scot. Rly. 4% Guaranteed	MA	69½xd	5 15 1	—
Southern Rly. 4% Debenture	JJ	99⅛	4 0 5	—
Southern Rly. 5% Guaranteed	MA	105½xd	4 14 9	—
Southern Rly. 5% Preference	MA	78¾xd	6 7 5	—

*Not available to Trustees over par.

†In the case of Stocks at a premium, the yield with redemption has been calculated as at the earliest date; in the case of other stocks, as at the latest date.

‡These Stocks are no longer available for trustees, either as strict Trustee or Chancery Stocks, no dividend having been paid on the Companies' Ordinary Stocks for the past year.

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JOHN STANLEY LATHAM, Deceased.

WILL anyone having knowledge of any Will made after 1923 by the above-named deceased, late of Ferring-on-Sea, Weybridge and Ealing, who died on the 4th February, 1933, formerly a Managing Director of United Dairies, Limited, kindly communicate with Beaumont, Son & Rigden, Solicitors, 18 Fleet-street, E.C.4.

WILLIAM HAMILTON UNDERHILL, decd. —Will ANY PERSON having any KNOWLEDGE or CUSTODY of a WILL or any PROPERTY of the above gentleman, formerly solicitor, of Bedford-row, W.C.1, and Aldenham Lodge Hotel, Radlett, Herts, please COMMUNICATE with Messrs. GREENE & UNDERHILL, 23, Bedford-row, W.C.1.

MRS. DAISY ISABEL IRELAND, deceased.—Will any solicitor or other person having knowledge or custody of any Will executed by the above-named deceased, who was the wife of Robert Ireland, licensee of The New Crown Hotel, St. Paul's Road, Canonbury (and formerly of other licensed houses), and who died there on the 19th January, 1933, aged fifty-six, please COMMUNICATE with Mr. Henry W. Airey, Solicitor, Salisbury Square House, Salisbury-square, Fleet-street, E.C.4?

MRS. ORA LINDA HARRIE PENDLETON BRODRICK, deceased.—Will any person having knowledge of a WILL made subsequent to the 9th December, 1928, by the above-named lady, who resided at Dungannon, Co. Tyrone, N. Ireland, in March, 1932, and afterwards at various addresses in the South of England, and who died at Simla, India, on the 20th November, 1932, please COMMUNICATE with Fowler, Legg & Co., Solicitors, 13, Bedford-row, London, W.C.1.?

By Order of Executors.

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Amount.	Secured upon.	Reversion.
£60 0 0	115, Lefevre-road, Bow, formerly the Gardeners Arms P.H. (rent paid by Cannon Brewery)	1964
£19 0 0	75 to 113 (odd), Lefevre-road ..	1964
£41 10 0	7 to 41 (odd), 30, 32, 42, 44 and 46, Appian-road, Bow	1964
£17 10 0	6 to 20 (even), Whitehall-street, Tottenham	1957
£7 10 0	7 to 13 (odd), Moselle-street, Tottenham	1957
£15 4 0	15 to 21 (odd), Moselle Street and 10, Love-lane	1953
£18 0 0	47, 63 and 65, Askew-crescent, Shepherd's Bush	1953
£11 0 0	47 to 53 (odd), Ormiston-road, Westcombe Park	1965
£14 14 0	34 to 46 (even), Tregenna-street, Brixton	1948
£10 0 0	40, 80 and 82, Wycliffe-road; 190 and 192, Eversleigh-road, Battersea	1969
£4 19 0	111, 113, 115, 125 and 127, St. Leonards-road, Poplar	1939
£2 0 0	25, 27 and 29, Marsden-road, East Dulwich	1976
£1 10 0	54 and 56, East Dulwich-grove and 50 and 52, Derwent-grove, East Dulwich	1972
Peppercorns	6 and 8, Brownlow-road, 94, 96 and 98, Haggerston-road, and 9, Trafalgar-road, Dalston	1939
Peppercorns	10, 32 and 34, Pownall-road, Dalston	1945

Particulars of Messrs. Bolton, Jobson & Yate-Lee, Solicitors, 2, Temple-gardens, Temple, E.C.4, and 7, Gray's Inn-square, W.C.1, and of the Auctioneers, Stimson & Sons, 25, Ironmonger-lane, Cheapside, E.C.2, and 12, New Kent-road, Elephant and Castle, S.E.1.

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PERIODICAL SALE No. 1202. REVERSIONS.

On THURSDAY next, 16th March, at 2.30.

ABSOLUTE REVERSION, life 69, to £22,600.—Solicitors: Messrs. Henry P. Spottiswoode & Co., 6, New Court, Lincoln's Inn, W.C.2.

ABSOLUTE REVERSION, life 69, to £3,170. Also REVERSION, life 65, to £970.—Solicitors: Messrs. Gotelee & Goldsmith, 11, Arcade-street, Ipswich.

ABSOLUTE REVERSION, life 74, to £5,960.—Solicitors: Messrs. Ince, Roscoe, Wilson & Glover, 10-11, Lime-street, E.C.3.

ABSOLUTE REVERSION, lives 60 and 67, to about £6,000.—Solicitors: Messrs. Tarry, Sherlock & King, 17, Serjeants' Inn, Fleet-street, E.C.4.

ABSOLUTE REVERSION, life 75, to £2,300.—Solicitors: Messrs. Lazarus, Son & Hart, 10, Queen-street, Mayfair, W.1.

ABSOLUTE REVERSION, life 66, to Freehold and Leasehold property at Brentford.—Solicitors: Messrs. Ruston, Clark & Ruston, 193-194, High-street, Brentford.

ABSOLUTE REVERSION, life 58, to £1,345.—Solicitors: Messrs. Lawrence, Graham & Co., 6, New-square, Lincoln's Inn, W.C.2.

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COLLATERAL SECURITIES amounting to £745.—Solicitors: Messrs. Wingfields, Halse & Trustram, 203, High-road, N.W.6. Particulars also of Messrs. Austin and Co., Surveyors, 333, High-road, Brondesbury, N.W.6.

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